

S.B. 339	S.B. 1068
S.B. 397	S.B. 1070
S.B. 405	S.B. 1081
S.B. 407	S.B. 1109
S.B. 464	S.B. 1040
S.B. 499	S.B. 1053
S.B. 510	S.B. 1089
S.B. 534	S.B. 1095
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S.B. 595	S.B. 1104
S.B. 777	

Sent to Comptroller  
(May 31, 1975)  
**S.B. 67**

**EIGHTY-SEVENTH DAY**  
(Monday, June 2, 1975)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

A quorum was announced present.

**AT EASE**

On motion of Senator Harrington and by unanimous consent, the Senate agreed to Stand at Ease until 11:00 o'clock a.m. today.

**IN LEGISLATIVE SESSION**

The President called the Senate to order As In Legislative Session at 11:00 o'clock a.m.

The Reverend Tommy R. Grozier, Windsor Park Baptist Church, Austin, Texas, offered the invocation as follows:

Our Father in Heaven,

Thank You for our liberty which has given us our privileges in our form of worship and government. Thank You for our precious heritage from those before us. Thank You for our bountiful fields, the quenching of our thirst by the abundance of water, for our natural resources locked in our land as treasure to be made useful. But the greatest of our resources for which we give thanks is for Yourself.

We have some needs we must also share. Grant us, we pray, peace as nations, actions worthy of Your blessings and worthy of our heritage as a state and a nation.

Give us pure hearts that we may see You. Give us humble hearts that we may hear You. Give us hearts of love that we may serve You. Give us hearts of faith that we may abide in You. Give our minds clearness of ideas in order that productive legislation will issue forth.

Forgive our sins because of our need for forgiveness. We ask this in Christ's name. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Saturday, May 31, 1975, was dispensed with and the Journal was approved.

#### **PRESENTATION OF GUEST**

The President presented as a Guest of the Senate Former Lieutenant Governor Ben Ramsey.

Governor Ramsey addressed the Senate.

#### **MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 103**, Suspending the Joint Rules so that either House may take up and consider **H.B. 188**.

**H.C.R. 163**, Requesting the House to return **H.B. 1918** to the Senate for further consideration.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 1854 by a non-record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 1334 by a vote of 138 ayes, 0 noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 614 by a vote of 125 ayes, 13 noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 1778 by a non-record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 1079 by a non-record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 458 by a non-record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 2182 by a vote of 134 ayes, 2 noes, 2 present-not voting.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill 1673 by a vote of 136 ayes, 0 noes.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 869. House Conferees: Temple, Ragsdale, Brown, Hendricks and Whitmire.

The House concurred in Senate amendments to **H.B. 261** by non-record vote.

The House concurred in Senate amendments to **H.B. 1570** by non-record vote.

The House concurred in Senate amendments to **H.B. 1089** by non-record vote.

The House concurred in Senate amendments to **H.B. 1674** by non-record vote.

**S.C.R. 109**, Resolving that certain Senate and House Rules be suspended to enable consideration of, and action on, the following specific matters which may be contained in the Conference Committee Report on Senate Bill 52 (for convenience, references are House version items.) (With amendments)

The House concurred in Senate amendments to **H.B. 299** by non-record vote.

The House concurred in Senate amendments to **H.B. 218** by non-record vote.

The House concurred in Senate amendments to **H.B. 887** by non-record vote.

The House concurred in Senate amendments to **H.B. 201** by non-record vote.

The House refused to concur in Senate amendments to House Bill 2179 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Bynum, Simpson, Cates, Davis and Spurlock.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 965. House Conferees: Nabers, Chairman; Ezzell, Vaughn, Truan and Von Dohlen.

June 1, 1975, the House has adopted the Conference Committee Report on House Bill 292 by a non-record vote.

The House concurred in Senate amendments to **H.B. 1126** by record vote of 129 ayes, 18 nays, 1 present-not voting.

**S.C.R. 94**, Commending the staff of the School Finance Special Projects Division of the Texas Education Agency for efforts on school finance legislation.

**H.C.R. 164**, In memory of The Honorable Rex Braun.

**S.B. 521**, A bill to be entitled An Act relating to the disposition of certain fees and charges collected by the East Texas Chest Hospital, the Harlingen State Chest Hospital, and the San Antonio State Chest Hospital; amending Section 6, Chapter 528, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4477-13, Vernon's Texas Civil Statutes); amending Chapter 548, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3201a-3, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendments)

**S.B. 364**, A bill to be entitled An Act relating to the reappropriation of certain funds to certain institutions of higher education; amending Section 21, Article IV, Chapter 659, Acts of the 63rd Legislature, Regular Session, 1973; and declaring an emergency. (Passed, subject to Sec. 49A, Art. 3, Constitution of Texas)

**S.B. 1005**, A bill to be entitled An Act making supplemental appropriations to the Industrial Accident Board; and declaring an emergency. (Passed, subject to Sec. 49A, Art. 3, Constitution of Texas) (With amendment)

The House concurred in Senate amendments to **H.B. 4** by record vote of 80 ayes, 68 nays.

**S.B. 734**, A bill to be entitled An Act to authorize municipalities to implement community development programs; declaring the objectives of certain activities undertaken to implement community development programs to be public purposes; providing severability; and declaring an emergency. (With amendment)

The House concurred in Senate amendments to **H.B. 1597** by non-record vote.

The House concurred in Senate amendments to **H.B. 1486** by non-record vote.

The House concurred in Senate amendments to **H.B. 1549** by non-record vote.

The House concurred in Senate amendments to **H.J.R. 99** by record vote of 147 ayes, 1 nay.

The House concurred in Senate amendments to **H.B. 1405** by non-record vote.

The House concurred in Senate amendments to **H.B. 970** by non-record vote.

The House concurred in Senate amendments to **H.B. 809** by non-record vote.

The House concurred in Senate amendments to **H.B. 652** by record vote of 138 ayes, 5 nays, 2 present-not voting.

The House concurred in Senate amendments to **H.B. 546** by record vote of 114 ayes, 30 nays.

**S.B. 1094**, A bill to be entitled An Act amending the Parks and Wildlife Code to incorporate legislation enacted by the 64th Legislature, Regular Session, 1975; and declaring an emergency. (With amendment)

The House has adopted the Conference Committee Report on House Bill 785 by a vote of 114 ayes, 19 noes.

The House refused to concur in Senate amendments to House Bill 2136 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Head, Leland, Pentony, Rains and Gaston.

The House concurred in Senate amendments to **H.B. 1893** by non-record vote.

The House concurred in Senate amendments to **H.B. 2229** by non-record vote.

The House concurred in Senate amendments to **H.B. 2219** by non-record vote.

The House concurred in Senate amendments to **H.B. 2212** by record vote of 132 ayes, 0 nays.

The House concurred in Senate amendments to **H.B. 2197** by non-record vote.

**H.C.R. 162**, Relating to correction of **H.C.R. 81**.

The House concurred in Senate amendments to **H.B. 2151** by non-record vote.

**S.C.R. 31**, Urging the United States Railway Association to reconsider its decision denying loan funds to support the operating and capital needs of the Rock Island Railroad.

**S.C.R. 39**, Directing the Board of Control and all state agencies to purchase American-made goods and materials whenever available.

**S.C.R. 89**, Congratulating Texas Tech University on its 50th Anniversary.

**S.C.R. 96**, Giving the U.S.A.A. Life Insurance Company permission to sue the State Board of Insurance and the State of Texas.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### REPORTS OF STANDING COMMITTEES

Senator Adams submitted the following reports for the Committee on Administration:

**H.C.R. 127**  
**H.C.R. 117**  
**H.B. 1058**  
**H.B. 1113**

#### SENATE RESOLUTION 702

Senator Adams offered the following resolution:

WHEREAS, The effectiveness and smooth operation of the Texas Senate over the past 20 years has been due largely to the efficient and faithful service of Charles Schnabel, who celebrates his 20th Anniversary as Secretary of the Senate on June 12, 1975; and

WHEREAS, Mr. Schnabel displays a great understanding of the legislative process and has always shown a sincere willingness to aid the members of the Senate; and

WHEREAS, Born February 14, 1932, in San Antonio, Charlie Schnabel moved to Austin in 1943, where he completed high school and was graduated from The University of Texas at Austin in 1953; he did graduate work for two years until he was elected Secretary of the Senate; and

WHEREAS, In addition to his responsibilities as Secretary of the Senate, Mr. Schnabel has had time to devote to the completion of his graduate studies in public administration, and to serve as an active participant in many organizations: he is

former president and secretary of the Northwest Austin Kiwanis Club, former president of the Local Camp of the Gideons, International, and former president of the Austin Woods and Waters Club; he is a member of the executive committee of the National Legislative Conference, the board of directors of the National Association of Legislative Staff Officers, and on the board of trustees of the Gulf Coast Bible College; and he serves as a member of the Austin Personnel Association, the American Society of Public Administration, and the Jaycees; and

WHEREAS, This well-loved public servant is also a participant in many outdoor sports and especially enjoys hunting, fishing, boating, archery, and diving; and

WHEREAS, Secretary Schnabel's wife, Nadine, and children, Mark and Beth Ann, are a constant source of joy and inspiration to him and have been adopted into the family of the Texas Senate; and

WHEREAS, The significant contributions of Charles Schnabel to the Texas Senate as well as the invaluable assistance he has given to each member of the Senate are deeply appreciated; his tireless devotion and warm, friendly nature are an example to the citizens of the entire state; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of the State of Texas commend Secretary of the Senate Charles Schnabel, distinguished public servant and friend of all legislators, for his outstanding contributions to the Texas Senate on the occasion of his 20th Anniversary of Senate service, which will be observed on June 12, 1975; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Charlie Schnabel, Secretary of the Senate, as a token of deep appreciation and high esteem from the Texas Senate.

The resolution was read and was adopted.

#### SENATE RESOLUTION 707

Senator Adams offered the following resolution:

WHEREAS, It is a longstanding tradition of the Texas Senate to note and observe events of special importance to this body; and

WHEREAS, Senator and Mrs. D. Roy Harrington are the proud grandparents of Shawn David Hathaway; and

WHEREAS, This young man is the fine son of Mr. and Mrs. Henry Hathaway of Pinewood Country Club Estates; and

WHEREAS, Mrs. Rita Butts and the late George Hathaway, grandparents to young Shawn David, also share in the joy that this young gentleman has brought to these fine families; and

WHEREAS, It is the desire of this legislative body to honor this fine young man, grandson to our esteemed colleague from the 4th District of Texas; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby extend best wishes to the Harrington Families for this addition to their fine family; and be it further

RESOLVED, That as an expression of our best wishes for continued good health and happiness throughout his life, Shawn David Hathaway is hereby named as an official "Mascot" of the Senate of the 64th Texas Legislature.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams the resolution was adopted.

#### SENATE RESOLUTION 708

Senator Adams offered the following resolution:

WHEREAS, It is a longstanding tradition of the Texas Senate to note and observe events of special importance to this body; and

WHEREAS, Senator and Mrs. D. Roy Harrington are the proud grandparents of Douglas Roy Harrington, Jr.; and

WHEREAS, This young man is the fine son of Mr. and Mrs. Douglas Roy Harrington of Bridge City; and

WHEREAS, Mr. and Mrs. Robert Wood, grandparents to young Douglas Roy, also share in the joy that this young gentleman has brought to these fine families; and

WHEREAS, It is the desire of this legislative body to honor this fine young man, grandson to our esteemed colleague from the 4th District of Texas; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby extend best wishes to the Harrington Families for this addition to their fine family; and be it further

RESOLVED, That as an expression of our best wishes for continued good health and happiness throughout his life, Douglas Roy Harrington, Jr. is hereby named as an official "Mascot" of the Senate of the 64th Texas Legislature.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams the resolution was adopted.

#### SENATE RESOLUTION 709

Senator Adams offered the following resolution:

WHEREAS, It is a longstanding tradition of the Texas Senate to note and observe events of special importance to this body; and

WHEREAS, Senator and Mrs. D. Roy Harrington are the proud grandparents of Michael Brett Hathaway; and

WHEREAS, This young man is the fine son of Mr. and Mrs. Henry Hathaway of Pinewood Country Club Estates; and

WHEREAS, Mrs. Rita Butts and the late George Hathaway, grandparents to young Michael Brett, also share in the joy that this young gentleman has brought to these fine families; and

WHEREAS, It is the desire of this legislative body to honor this fine young man, grandson to our esteemed colleague from the 4th District of Texas; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby extend best wishes to the Harrington Families for this addition to their fine family; and be it further

RESOLVED, That as an expression of our best wishes for continued good health and happiness throughout his life, Michael Brett Hathaway is hereby named as an official "Mascot" of the Senate of the 64th Texas Legislature.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

#### SENATE RESOLUTION 711

Senator Aikin offered the following resolution:

WHEREAS, A former member of the Legislature has reached the age of retirement; and

WHEREAS, The Honorable Hugh B. Steward was born on November 9, 1897, at Steward Mill, Texas; and

WHEREAS, After volunteering for military service at the age of 17, he served in World War I and celebrated his 21st birthday during his overseas duty in France; and

WHEREAS, After returning to Texas, he settled in Fairfield where he was engaged in the abstract business; and

WHEREAS, Hugh Steward came to Austin in 1931 as a member of the 42nd Legislature, which happened to be the first Legislature to receive \$10.00 a day pay; he also served in the 43rd and 44th Sessions of the Texas Legislature as a member of the House of Representatives; and

WHEREAS, Hugh Steward is active in his Church, the Fairfield Harmony Presbyterian Church where he has served as a Deacon and an Elder, and he is a past Worshipful Master of the Fairfield Masonic Lodge and recently received his 50 year Masonic pin; and

WHEREAS, Throughout the years, Hugh Steward has given of his time and talents for the betterment of his community, his state, and his nation; and

WHEREAS, It is the desire of the Senate to congratulate the Honorable Hugh Steward on reaching retirement age; now, therefore, be it

RESOLVED, That the Senate of Texas extend to the Honorable Hugh B. Steward best wishes for many happy years in his retirement.

AIKIN  
MOORE

The resolution was read.

Senators Moore, Schwartz, Adams, Harrington and McKnight expressed appreciation to Mr. Steward for his many years of service to the State of Texas.

On motion of Senator McKnight and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Aikin the resolution was adopted.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate



Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the Conference Committee Report on House Bill 1484 adopted by a vote of 129 Ayes, 1 No, and 3 Present-Not voting.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### STATEMENT BY LIEUTENANT GOVERNOR

An item for consideration by the Senate this morning will be House amendments to S.C.R. 109. S.C.R. 109 is the resolution authorizing the Conference Committee on S.B. 52 (The General Appropriations Bill) to make adjustments in the Appropriations Bill that are not now possible because they are not in either the House or Senate version of the bill. The Senate has three alternatives:

- (1) Concur in all House amendments;
- (2) Concur in some House amendments and refuse to concur in others; or
- (3) Refuse to concur in all House amendments.

If the Senate chooses either of the latter two alternatives, a Conference Committee will be appointed to consider those House amendments in which the Senate has refused to concur. This Conference Committee is likely to consist of the same conferees as those appointed to the committee on S.B. 52, but the committee will be charged with resolving differences on S.C.R. 109. No action is possible by either the House or Senate on S.B. 52 until all of the differences on S.C.R. 109 are resolved either by Senate concurrence in House amendments or adoption of a Conference Committee Report on S.C.R. 109.

In considering whether to concur in House amendments to S.C.R. 109, Senators should keep in mind that the resolution merely authorizes the Conference Committee on S.B. 52 to go beyond the House and Senate versions of that bill in preparing the Conference Committee Report. It does not require that the Conference Committee include any or all of the items authorized in this resolution. An important aspect of this characteristic is that concurrence in a House amendment that deletes a portion of S.C.R. 109 or reduces an appropriation contained in the resolution is to prohibit the Conference Committee on S.B. 52 from including the deleted provision or exceeding the reduced appropriation in the bill; but, concurrence in an amendment that authorizes the addition of a rider or provision in S.B. 52 does not bind the Conference Committee on S.B. 52 to add the provision. The matter of addition is left to be resolved by the Conference Committee itself.

Two House amendments illustrate the difference.

(1) One House amendment (by Hoestenbach) deleted Item No. 9 on page 50, thus removing the authority for the Conference Committee on S.B. 52 to include a provision allowing Texas A&M to enter into an agreement with an accredited law school for a program leading to a degree of Doctor of Jurisprudence. Concurrence in this amendment would mean that the Conference Committee on S.B. 52 could not include the provision in its report.

(2) Another House amendment (by Hutchinson) added authority for the Conference Committee to include a provision indicating that the specific listing in S.B. 52 of approved facilities construction projects at certain institutions of higher education did not constitute legislative authority for such construction without prior coordinating board approval as required by S.B. 706. The following institutions are affected - units of the U.T. System, the Texas A&M System, East Texas State University, University of Houston, Sam Houston State University and Stephen F. Austin University. The specific listing of projects for the affected institutions are already in either the House or

Senate version of **S.B. 52** except for the University of Houston and Sam Houston State University. Concurrence in this House amendment would only authorize the Conference Committee on **S.B. 52** to add the provision. The actual decision of whether to include the provision in the Conference Committee Report on **S.B. 52** will rest with the conferees on that bill.

Similar distinctions exist on the other House amendments.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Aikin and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.C.R. 109**.

#### **SENATE CONCURRENT RESOLUTION 109 WITH HOUSE AMENDMENTS**

Senator Aikin called **S.C.R. 109** from the President's table for consideration of the House amendments to the resolution.

The President laid the resolution and the House amendments before the Senate.

#### **AMENDMENT NO. 1(A)**

Amend **S.C.R. 109** by striking IIE, relating to the Civil Air Patrol Commission on page 38 and Item E7 on page 35.

#### **AMENDMENT NO. 1(B)**

Amend **S.C.R. 109** by adding a new item under the Railroad Commission on page 42 as follows:

On page III-121 under the Railroad Commission add a new item "out of the General Revenue Fund for funding of **S.B. 55**, 64th Legislature, \$250,000 in 1976 and to \$750,000 in 1977."

#### **AMENDMENT NO. 1(C)**

Amend **S.C.R. 109**, page 20, Article III, Item I, (D), (12) by adding the following rider language to that item:

"In addition to all other funds appropriated above for the Public Utilities Commission, there is hereby appropriated any additional funds which may be collected under the provisions of H.B. 819, Acts of the 64th Legislature, R.S., 1975."

#### **AMENDMENT NO. 1(D)**

Amend **S.C.R. 109** by deleting all of 9 on page 50.

#### **AMENDMENT NO. 1(E)**

Amend **S.C.R. 109** at page 54 by adding a new Item 34 at the bottom of that page to read as follows:

On page IV-97, Special Provisions, insert the following provisions:

"Notwithstanding the specific listing of approval of facilities construction projects following appropriations to various component units of The University of Texas System, the Texas A&M University System, East Texas State University, University of Houston, Sam Houston State University and Stephen F. Austin State University, such listings shall not constitute approval by the Legislature as contemplated by **S.B. 706**, 64th Legislature."

**AMENDMENT NO. 2(A)**

Amend **S.C.R. 109**, Article III, Items 2 and 3 on page 39 by striking Item 2 and Item 3 and insert the following:

For the year ending  
August 31, 1976    August 31, 1977

"2. Policy Analysis and Planning Data Bank Development, Economic Modeling, Conservation, other Expense and Federal/State Relations and adjust the totals accordingly."	\$ 600,000        \$ 600,000
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**AMENDMENT NO. 2(B)**

Amend **S.C.R. 109**, page 60, Article IV, Section II, Subsection E, No. 5 by making the following reductions:

Texas College of Osteopathic Medicine (Under the Board of Regents of North Texas State University)

For the year ending  
August 31, 1976    August 31, 1977

Out of the General Revenue Fund 1. All educational and general expenses, including plant operation, necessary rent, planning and architect fees.  Construction Grand Total, Texas College of Osteopathic Medicine	     \$ 5,291,272        \$4,790,390  \$10,000,000  \$15,291,272        \$4,790,390
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**AMENDMENT NO. 2(C)**

Amend **S.C.R. 109**, Article V, Item A-1 on page 61 by striking Item "A-1."

The House amendments were read.

**MOTION IN WRITING**

Senator Aikin submitted the following Motion in Writing:

I move that the Senate selectively concur in House amendments to **S.C.R. 109**. Specifically, I move that:

(1) The Senate concur in the following House amendments:

a. The amendment removing the appropriation to the Civil Air Patrol Commission to defray fuel costs:

b. The amendment increasing the appropriation to the Railroad Commission (to include amounts necessary for the implementation of **S.B. 55**, strip mining regulation):

c. The amendment appropriating to the Public Utilities Commission all funds resulting from the fees provided for **H.B. 819**;

d. The amendment deleting authorization for Texas A&M to enter into an agreement leading to a Doctor of Jurisprudence degree; and

e. The amendment providing that a listing of approval of facility construction projects at certain institutions of higher education does not constitute legislative approval for the construction under **S.B. 706**.

(2) The Senate refuse to concur in the following House amendments and appoint a Conference Committee to settle differences on the amendments:

a. The amendment reducing appropriations to the Governor's Energy Advisory Council;

b. The amendment reducing appropriations to the Texas College of Osteopathic Medicine; and

c. The amendment deleting authorization for replacement of aircraft.

The Motion in Writing was read and was adopted by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

The President asked if there were any motions to instruct the Conference Committee on the items on which the Senate refused to concur on **S.C.R. 109** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Aikin, Creighton, Brooks, Schwartz and Moore.

#### **HOUSE CONCURRENT RESOLUTION 163 ON SECOND READING**

The President laid before the Senate the following resolution:

**H.C.R. 163**, Requesting return from House of Representatives of **H.B. 1918** to Senate for further consideration.

The resolution was read.

On motion of Senator Schwartz and by unanimous consent, the resolution was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 162 ON SECOND READING**

The President laid before the Senate the following resolution:

**H.C.R. 162**, Authorizing Enrolling and Engrossing Clerk to make certain corrections in **H.C.R. 81**.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

**SENATE BILL 240 WITH HOUSE AMENDMENT**

Senator Sherman called **S.B. 240** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amend **S.B. 240** by adding a new section before present section 2, and renumbering accordingly, such new section to read as follows:

"Sec. 3. There is hereby appropriated from the General Revenue Fund the sum of \$279,000 for each year of the biennium beginning September 1, 1975 and ending August 31, 1977."

The House amendment was read.

Senator Sherman moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 240** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sherman, Moore, Farabee, Doggett and Kothmann.

**CONFERENCE COMMITTEE ON HOUSE BILL 2136**

Senator Snelson called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2136** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2136** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Snelson, Ogg, Jones, Hance and Patman.

**CONFERENCE COMMITTEE ON HOUSE BILL 2179**

Senator Sherman called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2179** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2179** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sherman, Farabee, Hance, Snelson and Braecklein.

#### **SENATE BILL 192 WITH HOUSE AMENDMENTS**

Senator Jones called **S.B. 192** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

##### **AMENDMENT NO. 1**

Amend **S.B. 192** by adding the words "and precinct" after the word "county" on line 1, page 5.

##### **AMENDMENT NO. 2**

Amend **S.B. 192** by changing the words "reasonable possibility" to "reasonable probability" wherever they appear in said bill.

The House amendments were read.

Senator Jones moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Doggett, Farabee, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, McKinnon, McKnight, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Braecklein, Clower, Gammage, Longoria, Mauzy, Meier and Patman.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator McKnight and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 521**.

#### **SENATE BILL 521 WITH HOUSE AMENDMENTS**

Senator McKnight called **S.B. 521** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

##### **COMMITTEE AMENDMENT NO. 1**

Amend **S.B. 521** by striking all below the enacting clause and substituting the following:

Section 1. Section 6, Chapter 528, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4477-13, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 6. A schedule of minimum fees and charges shall be established hereunder by the superintendent, which shall conform to the fees and charges customarily made for similar services in the community in which such services are rendered. Fees and charges collected for physicians' services shall be retained locally and shall be used only for the purpose of recruiting, retaining, and supplementing the salaries of the hospital's medical staff. Distribution of fees and charges for physicians' services shall be subject to rules and regulations adopted by the medical staff and approved by the State Board of Health, not inconsistent with the laws of this state regulating the practice of medicine."

Sec. 2. Chapter 548, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3201a-3, Vernon's Texas Civil Statutes), is amended by adding Section 6A to read as follows:

"Section 6A. DISPOSITION OF FEES AND CHARGES. A schedule of minimum fees and charges shall be established hereunder by the superintendent, which shall conform to the fees and charges customarily made for similar services in the community in which such services are rendered. Fees and charges collected by each hospital for physicians' services shall be retained locally and shall be used only for the purpose of recruiting, retaining, and supplementing the salaries of the hospital's medical staff. Distribution of fees and charges for physicians' services shall be subject to rules and regulations adopted by the medical staff and approved by the State Board of Health, not inconsistent with the laws of this state regulating the practice of medicine."

Sec. 3. Subsection (c), Section 2, Chapter 548, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3201a-3, Vernon's Texas Civil Statutes), is repealed.

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### COMMITTEE AMENDMENT NO. 2 \*

Amend Committee Amendment No. 1 to Senate Bill 521, Second House Printing, as follows:

(1) On page 3, line 6, strike the words "and approved by the State Board of Health".

(2) On page 3, strike the quoted Section 6A on lines 11 through 22 and insert in its place the following:

"Section 6A. DISPOSITION OF FEES AND CHARGES. Fees and charges collected by each hospital for physicians' services shall be retained locally and shall be used only for the purpose of recruiting, retaining, and supplementing the salaries of the hospital's medical staff. Distribution of fees and charges for physicians' services shall be subject to rules and regulations adopted by the medical staff, not inconsistent with the laws of this state regulating the practice of medicine."

The House amendments were read.

Senator McKnight moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Traeger and Williams.

Nays: Adams and Snelson.

#### SENATE CONCURRENT RESOLUTION 111

Senator Ogg offered the following resolution:

**S.C.R. 111**, Suspending Joint Rules in order that **S.B. 163** might be considered at any time.

On motion of Senator Ogg and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Adams and Mauzy.

#### SENATE BILL 893 WITH HOUSE AMENDMENTS

Senator Jones called **S.B. 893** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### AMENDMENT 1

Amend **S.B. 893** by adding a new Section 2, as follows, and renumbering accordingly:

Section 2. Section 3 of Article 21.07-3, of the Insurance Code of the State of Texas, as amended, is amended to read as follows:

"Section 3. **ACTING WITHOUT LICENSE PROHIBITED.** It shall be unlawful for any person, firm or corporation to act as a managing general agent in behalf of any insurance company or carrier without having in force the license provided for herein, except that no license shall be required if the applicant is a business corporation authorized to do business in Texas, all of whose outstanding stock is solely owned by an insurance company or carrier licensed to do business in Texas, whose business affairs are completely controlled by such insurance company or carrier and the principal purpose for which the corporation exists is to facilitate the accumulation of commissions from the insurance company or carrier and its subsidiaries and affiliates for the account of and payment to an agent who could otherwise lawfully receive such commission direct from the insurance company or carrier and its subsidiaries and affiliates and the corporation does no other act of a managing general agent as provided for in this Article."

#### AMENDMENT 2

Amend **S.B. 893** by changing the period at the end of quoted Section 2 to a semicolon and adding the following:



"provided, however, that any contracts entered into with agents shall be executed by the managing general agent in behalf of the insurance company or carrier."

The House amendments were read.

Senator Jones moved to concur in the House amendments.

The motion prevailed.

### RECORD OF VOTES

Senators Mauzy, Braecklein and Doggett asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

### SENATE RULE 74a SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 1094**.

### SENATE BILL 1094 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 1094** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amend Senate Bill 1094 by striking all below the enacting clause and substituting the following:

Section 1. Chapter 43, Parks and Wildlife Code, is amended to conform to **S.B. No. 147** by adding Subchapter I to read as follows:

#### "SUBCHAPTER I. ARCHERY STAMPS

"Sec. 43.201. ARCHERY STAMP REQUIRED. (a) No person may hunt wild deer, bear, turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only longbows and arrows may be used unless the person has first acquired from the department or from an authorized agent of the department an archery hunting stamp.

"(b) The stamp shall be issued in the form prescribed by the department and must be signed on its face by the person using the stamp. (Acts 64th Legis., Reg. Sess., **S.B. No. 147**, Sec. 1 (part).)

"Sec. 43.202. FEE. The fee for an archery hunting stamp is \$3.25, of which 25 cents shall be retained by the agent issuing the stamp as a collection fee, except that employees of the department may not retain the collection fee. (Acts 64th Legis., Reg. Sess., **S.B. No. 147**, Sec. 1 (part).)

"Sec. 43.203. HUNTING LICENSE REQUIRED. The purchase or possession of an archery hunting stamp does not permit a person to hunt wild deer, bear, turkey, or javelina without the license required by Chapter 42 of this code or by any means or methods not allowed by law. (Acts 64th Legis., Reg. Sess., **S.B. No. 147**, Sec. 2.)

"Sec. 43.205. PENALTY. (a) A person who violates Section 43.201 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

"(b) A person hunting a species covered by this chapter during an open archery season who fails or refuses on the demand of any game warden or other peace officer to exhibit an archery hunting stamp is presumed to be in violation of Section 43.201 of

this code. (Acts 64th Legis., Reg. Sess., S.B. No. 147, Sec. 4.)

"Sec. 43.204. DISPOSITION OF REVENUE. The net revenue derived from the sale of archery hunting stamps and all revenue derived from penalties assessed for violations of Section 43.201 of this code shall be sent to the department and deposited to the credit of the special game and fish fund. (Acts 64th Legis., Reg. Sess., S.B. No. 147, Sec. 3.)"

Sec. 2. Section 66.111, Parks and Wildlife Code, is amended to conform to S.B. No. 150 and to read as follows:

"Sec. 66.111. SALE AND PURCHASE OF CERTAIN FISH ~~[SALE OF FISH]~~. (a) No person may buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport or ship for the purpose of sale, or barter or exchange freshwater crappie, ~~[or]~~ bass of the genus *Micropterus*, striped bass, walleye, sauger, northern pike, muskellunge, trout of the family Salmonidae, or flathead catfish.

"(b) No person may sell or offer to sell any freshwater fish taken from the water of any county west of the Pecos River.

"(c) Subsection (a) of this section does not apply to a fish reared in private water and marketed for the purpose of stocking the water of this state, nor to a fish shipped into this state and offered for sale for consumption. ~~[No person may sell, barter, or offer to sell or barter rainbow trout taken from the water of the state.]~~

"(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of:

"(1) not more than \$200 ~~[\$100]~~ if Subsection (a) is violated; or

"(2) not less than \$10 nor more than \$100 if Subsection (b) is violated ~~[; and]~~

"~~[(3) not less than \$10 nor more than \$50 if Subsection (c) is violated]~~. (P.C. Art. 978e; V.A.P.C. Art. 978L-1 ~~[- Art. 933 1/2e; Art. 933 1/2d].)~~"

Sec. 3. Subchapter D, Chapter 43, Parks and Wildlife Code, is amended to conform to S.B. No. 169 and to read as follows:

#### "SUBCHAPTER D. PRESERVE AND RESORT LICENSES

"Sec. 43.041. DEFINITIONS. In this subchapter:

"(1) 'Shooting preserve' means the aggregate amount of land owned by one individual, partnership, firm, or corporation in a county and leased for hunting purposes. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county, the individual, partnership, firm, or corporation may not be required to have a separate shooting preserve license for that portion of the land located in the second county, unless the individual, partnership, firm, or corporation owns other land leased for hunting purposes in the second county. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county and the individual, partnership, firm, or corporation is not required to have two licenses, the aggregate acreage of the tract shall be used for determining the amount of the license fee required by this subchapter ~~[a separate, unconnected, and distinct tract of land with a continuous and unbroken boundary leased for hunting purposes]~~.

"(2) 'Shooting resort' means a tract of land of not less than 600 nor more than 2,000 contiguous acres on which pen-raised fowls or imported game birds are released to provide hunting for members or guests. (P.C. Art. 908, Sec. (b), (c).)

~~[(3) "Shooting club" means an association of persons or a legal entity that owns or operates a shooting preserve or shooting resort. (New.)]~~

"Sec. 43.042. LICENSE REQUIRED. No person who is the manager or owner of a ~~[shooting club,]~~ shooting preserve~~[-]~~ or shooting resort~~[-]~~ ~~[or who leases land for hunting purposes]~~ may receive ~~[or accommodate]~~ as a ~~[member or]~~ guest of the ~~[shooting club,]~~ shooting resort~~[-]~~ or shooting preserve~~[-]~~ ~~[or as a guest of the lessee of land,]~~ for pay another person engaged in hunting unless the owner~~[-]~~ or manager~~[-]~~ ~~[or lessee]~~ has acquired a license from the department or an authorized agent of the department authorizing the receiving ~~[or accommodation]~~ of ~~[members and]~~ guests. (P.C. Art. 908, Sec. (a) (part).)

"Sec. 43.043. ISSUANCE OF LICENSE. The department shall issue one license for each shooting preserve or shooting resort. (P.C. Art. 908, Sec. (f).)

"Sec. 43.044. LICENSE FEES. (a) The fees for shooting preserve licenses are:

"(1) \$10 if the area of the shooting preserve is less than 500 acres;

"(2) \$25 if the area of the shooting preserve is 500 acres or more but less than 1,000 acres; and

"(3) \$40 if the area of the shooting preserve is 1,000 acres or more ~~(fee for shooting preserve license is \$25).~~

"(b) The fee for a shooting resort license is \$25. (P.C. Art. 908, Sec. (g) (part).)

"Sec. 43.045. DURATION OF LICENSE. A shooting preserve license and a shooting resort license are valid for the period from September 1 of one year through August 31 of the following year. (P.C. Art. 908, Sec. (a) (part).)

"Sec. 43.046. FORM AND EXECUTION OF LICENSE. (a) The department shall furnish license forms to agents who are authorized to issue hunting and fishing licenses.

"(b) The license must:

"(1) be numbered serially with stubs attached;

"(2) be clearly marked as a shooting preserve license or a shooting resort license;

"(3) have printed across the face of the license the year for which it is issued;

"(4) show the expiration date of the license; and

"(5) bear the seal of the department; ~~and~~

~~"(6) have printed on the reverse side of the license the open seasons and bag limits for the game authorized to be taken.~~

"(c) The license shall be executed by filling in the name and address of the licensee, the name of the ~~[shooting club,]~~ shooting preserve~~[-]~~ or shooting resort, the character of game found in the area to which the license applies, and the signature of the employee of the department or issuing agent. (P.C. Art. 908, Sec. (m).)

"Sec. 43.047. NAME OF ~~[CLUB,]~~ PRESERVE~~[-]~~ OR RESORT. The holder of a shooting preserve or shooting resort license shall file with the department the name of the ~~[shooting club,]~~ shooting preserve~~[-]~~ or shooting resort. (P.C. Art. 908, Sec. (g) (part).)

"Sec. 43.048. AFFIDAVIT REQUIRED. The holder of a shooting preserve or shooting resort license shall certify by his signature on forms provided by the department ~~[file with the department an affidavit stating]~~ that the licensee will:

"(1) not violate any of the provisions of this subchapter;

"(2) endeavor to prevent any guest ~~[or member]~~ of the ~~[shooting club,]~~ shooting preserve~~[-]~~ or shooting resort from violating any of the provisions of this subchapter; and

"(3) not receive ~~[or accommodate members or]~~ guests who do not have valid hunting licenses. (P.C. Art. 908, Sec. (g) (part).)

"Sec. 43.049. NONRESIDENT HUNTING LICENSE FOR SHOOTING RESORT. (a) A nonresident may acquire a shooting resort hunting license from the department entitling the nonresident to take wild birds from a shooting resort only.

"(b) A nonresident shooting resort hunting license is valid from October 1 of one year to April 1 of the following year.

"(c) The fee for a nonresident shooting resort hunting license is \$5, of which fee 25 cents may be retained as a collection fee by the agent issuing the license but not by an employee of the department. (P.C. Art. 908, Sec. (g) (part).)

"Sec. 43.050. SHOOTING RESORT IDENTIFIED. (a) The owner or manager of a shooting resort shall mark the boundaries of the shooting resort with metal signs. The signs shall be placed at each entrance to the resort and around the perimeter of the resort at a distance of not more than 1,000 feet apart.

"(b) The size of the sign must be at least 18 inches by 24 inches.

"(c) The signs must bear the words 'Shooting resort licensed by the Parks and Wildlife Department--Hunting by permit only.' The lettering of the words must be large enough so that they may be read under ordinary conditions from a distance of 200 feet. (P.C. Art. 908, Sec. (d).)

"Sec. 43.051. SEASON. The open season on a shooting resort ~~[or other hunting area]~~ for the taking of game birds, pen-raised fowl, and imported game birds that have been stocked by the owner is from October 1 of one year through April 1 of the following year. (P.C. Art. 908, Sec. (i).)

"Sec. 43.052. BANDING GAME BIRDS. Each game bird killed ~~[taken]~~ on a shooting resort shall be banded with a band showing the permit number of the owner of the resort. The band must remain on the bird after it is killed and processed. (P.C. Art. 908, Sec. (h).)

"Sec. 43.053. RELEASING OF FOWL REQUIRED. ~~[(a)]~~ The operator of a shooting resort shall release at least 500 quail or at least 500 pheasant or chukar annually for each 600 acres of land licensed as a shooting resort.

~~[(b) The operator of a shooting resort shall release a number of birds equal to at least five percent of the number of birds taken during the open season within 30 days after the end of the open season provided in this subchapter.]~~ (P.C. Art. 908, Sec. (e).)

~~["Sec. 43.054. RECORDS. (a) The manager of a shooting club, shooting resort, shooting preserve, or land leased for hunting shall keep a suitable record book.~~

~~(b) Each member or guest of a shooting club, shooting resort, or shooting preserve, or guest of a lessee of land leased for hunting shall register in the record book. He shall enter his name and address, his hunting license number, and the number and kinds of game taken for each day. (P.C. Art. 908, Sec. (j) (part).)]~~

~~[Sec. 43.055. REPORTS. The manager of a shooting club, shooting resort, shooting preserve, or land leased for hunting shall report to the department on or before May 1 of each year. (P.C. Art. 908, Sec. (j) (part).)]~~

"Sec. 43.054. ~~[Sec. 43.056.]~~ CANCELLATION OF LICENSE. (a) If the manager of a ~~[shooting club,]~~ shooting resort~~], or shooting preserve[, or land leased for hunting]~~ fails or refuses to comply with any provision of this subchapter, the department or its authorized agent may cancel the license granted under this subchapter without refunding the license fee.

"(b) A person whose license is cancelled under this section may not receive another license for one year after the cancellation. (P.C. Art. 908, Sec. (k).)

"Sec. 43.055. ~~[Sec. 43.057.]~~ PENALTY. A manager of a ~~[shooting club,]~~ shooting resort~~], or shooting preserve[, or land leased for hunting]~~ who violates any provision of this subchapter or who fails to comply with any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or by confinement in the county jail for not more than 90 days, or by both. (P.C. Art. 908, Sec. (l) (part).)"

Sec. 4. (a) Section 13.101, Parks and Wildlife Code, is amended to conform to S.B. No. 142 and to read as follows:

"Sec. 13.101. AUTHORIZATION. The commission may promulgate regulations governing the health, safety, and protection of persons and property in state parks, historic sites, scientific areas, or forts under the control of the department, including public water within state parks, historic sites, scientific areas, and forts. (V.A.C.S. Art. 6067b, Sec. 1 (part).)"

(b) Chapter 13, Parks and Wildlife Code, is amended to conform to S.B. No. 142 by adding a Section 13.111 to read as follows:

"Sec. 13.111. PORTION OF FINE TO BE RETAINED BY COUNTY. The justice or county court imposing a fine for a violation of this subchapter may retain 15 percent of the amount of the fine collected to be deposited in the county treasury in the same manner as court costs. (V.A.C.S. Art. 6070b, Sec. 4 (part).)"

Sec. 5. Subchapter E, Chapter 81, Parks and Wildlife Code, is amended to conform to S.B. No. 149 by adding Section 81.404 to read as follows:

"Sec. 81.404. **CONTRACTS FOR REMOVAL OF FUR-BEARING ANIMALS.** (a) The department may contract for the removal of fur-bearing animals and reptiles in wildlife management areas under the control of the department. The removal of fur-bearing animals and reptiles shall be according to sound biological management practices.

"(b) Contracts for the removal of fur-bearing animals and reptiles shall be entered into under the direction of the State Board of Control in the manner provided by general law for the sale of state property, except that the department shall determine the means, methods, and quantities of fur-bearing animals and reptiles to be taken, and the department may accept or reject any bid received by the board of control.

"(c) Fur-bearing animals may be removed only during the open season provided in Section 72.002 of this code. Reptiles may be removed at any time unless there is a proclamation relating to a specific species of reptiles in effect under Chapter 67 of this code, in which case that species of reptiles may be removed only during the open season provided for in the proclamation.

"(d) Revenue received by the department under this section shall be deposited in the special game and fish fund. (Acts 64th Legis., Reg. Sess., S.B. No. 149.)"

Sec. 6. (a) Subsection (a), Section 66.105, Parks and Wildlife Code, is amended to conform to S.B. No. 151 and to read as follows:

"(a) No person may take from public fresh water and retain, or place in a boat, creel, live-box, or other container or on a fish stringer, a largemouth black bass, a smallmouth black bass, a spotted bass, or any subspecies of these bass that is less than 10 ~~seven~~ inches long."

(b) Section 66.106, Parks and Wildlife Code, is amended to conform to S.B. No. 151 and to read as follows:

"Sec. 66.106. **CATCH LIMITS.** (a) Except as provided in Subsections (b) and (c) of this section, no ~~no~~ person may catch and retain in any one day, or place in or on any container or device used for holding fish while in the process of fishing, fish taken from public fresh water in excess of the following limitations:

<u>Species</u>	<u>Limit</u>
"(1) <u>large-mouth black bass, small-mouth black bass, spotted bass, or any of their subspecies, singly or in the aggregate</u>	<u>10</u>
"(2) <u>striped bass</u>	<u>1</u>
"(3) <u>blue, channel, or yellow flathead catfish, singly or in the aggregate</u>	<u>25</u>
"(4) <u>crappie or white perch</u>	<u>25</u>
"(5) <u>walleye or sauger, singly or in the aggregate</u>	<u>5</u>
"(6) <u>northern pike and muskellunge, singly or in the aggregate</u>	<u>3</u>
"(7) <u>trout of the family Salmonidae, including but not limited to rainbow trout, brown trout, and coho salmon, singly or in the aggregate</u>	<u>5</u>

~~[(1) 15 largemouth black bass, smallmouth black bass, spotted bass, or any subspecies of these bass, singly or in the aggregate, not more than 10 of which may be more than 11 inches long;~~

~~(2) 25 white bass;~~

~~(3) 25 blue, channel, or yellow catfish, singly or in the aggregate; and~~

~~(4) 25 crappie or white perch.]~~

"(b) A person may possess at one time not more than 50 blue, channel, or yellow flathead catfish, singly or in the aggregate.

"(c) ~~[(b)]~~ The retention limit in this section for catfish does not apply to a person holding a commercial fishing license issued under Section 47.002 of this code.

"(d) ~~[(e)]~~ A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. (V.A.P.C. Art. 927a, Sec. 3, 4; Art. 934a, Sec. 3, subdiv. 13 (part).)"

Sec. 7. Subsection (c), Section 43.014, Parks and Wildlife Code, is amended to conform to S.B. No. 166 and to read as follows:

"(c) The department shall deposit the stamp sale receipts in the state treasury in special game and fish fund no. 9. One-half of these receipts may be spent only for research and management for the protection of white-winged dove and the other one-half may be spent only for the acquisition, lease, or development of white-winged dove habitat in the state."

Sec. 8. (a) Section 45.001, Parks and Wildlife Code, is amended to conform to S.B. No. 230 and to read as follows:

"Sec. 45.001. LICENSE REQUIRED. (a) Except as provided in Subsection (b) of this section, no [No] person may engage in the business of propagating game birds [for the purpose of sale] without first acquiring the proper license authorized to be issued under this chapter.

"(b) A person is not required to have a license issued under this chapter if he possesses not more than 12 game birds for personal use only. (V.A.P.C. Art. 978k-1, Sec. 1 (part).)"

(b) Section 45.003, Parks and Wildlife Code, is amended to conform to S.B. No. 230 and to read as follows:

"Sec. 45.003. TYPES OF LICENSES; FEES. (a) A class 1 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity ~~[for sale]~~. The fee for a class 1 commercial game bird breeder's license is \$50.

"(b) A class 2 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity ~~[for sale]~~, except that the holder of a class 2 license may not possess more than 1,000 game birds during any calendar year. The fee for a class 2 commercial game bird breeder's license is \$5. (V.A.P.C. Art. 978k-1, Sec. 3.)"

(c) Subsections (a) and (c) of Section 45.005, Parks and Wildlife Code, are amended to conform to S.B. No. 230 and to read as follows:

"(a) No holder of a ~~[class 2]~~ commercial game bird breeder's license may fail to band ~~[and keep banded]~~ all live game birds in his possession before selling the birds as required by this section."

"(c) The bands required in this section shall be of metal and shall bear the serial number of the holder of the ~~[class 2]~~ license."

(d) Chapter 45, Parks and Wildlife Code, is amended to conform to S.B. No. 230 by adding a Section 45.0061 to read as follows:

"Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not required to possess a commercial game bird breeder's license under Subsection (b) of Section 45.001 shall, on the request of a game warden commissioned by the department, furnish to the warden information as to the source from which game birds in the possession of the person were derived. The failure or refusal to comply with this section is a violation of this chapter. (V.A.P.C. Art. 978k-1, Sec. 1 (part).)"

Sec. 9. Sections 44.002 and 44.003, Parks and Wildlife Code, are amended to conform to S. B. No. 231 and to read as follows:

"Sec. 44.002. LICENSE REQUIREMENT. No person may place in captivity or engage in the business of propagating any game animal of this state ~~[for the purpose of sale, barter, exchange, or offering for sale, barter, or exchange]~~ unless he has

obtained a license issued under this chapter from the department. (V.A.P.C. Art. 978k, Sec. 1 (part).)

"Sec. 44.003. **GAME BREEDER'S LICENSE.** The department shall issue a game breeder's license on payment of a license fee of \$5. The license is valid for a period of one year ~~[expires on August 31]~~ following the date of its issuance. (V.A.P.C., Art. 978k, Sec. 1 (part).)"

Sec. 10. Chapter 43, Parks and Wildlife Code, is amended to conform to S.B. No. 658 by adding a Subchapter J to read as follows:

**"SUBCHAPTER J. FIELD TRIAL LICENSES**

"Sec. 43.251. **DEFINITIONS.** In this subchapter:

"(1) 'Member field trial' means a trial of retriever dogs held by a club or association that is a member of the American Kennel Club and during which championship points may be awarded.

"(2) 'Licensed field trial' means a trial of retriever dogs held by a club or association not a member of the American Kennel Club but which trial has been licensed by the American Kennel Club and during which championship points may be awarded.

"(3) 'Sanctioned field trial' means an informal retriever dog field trial held by any club or association and which trial is sanctioned by the American Kennel Club even though championship points are not awarded.

"(4) 'Retriever dog training' means any training activity relating to the development of retrieving breeds of dogs under field conditions for hunting purposes or which would qualify retriever breeds of dogs to take part in member, licensed, or sanctioned field trials.

"(5) 'Captive-reared birds' means pen-raised pheasant, chukar, mallard duck, and feral pigeon only. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 1.)

"Sec. 43.252. **FIELD TRIAL LICENSES AUTHORIZED.** (a) The department may issue primary field trial area licenses applying to not more than 1,000 contiguous acres of land for each license.

"(b) The department may issue to the holder of a primary field trial license not more than six auxiliary field trial licenses applying to not more than 300 contiguous acres for each auxiliary field trial license.

"(c) The licenses authorized by this section must be on a form designed and provided by the department.

"(d) A license authorized by this section is valid until December 31 of the year for which it is issued. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 2.)

"Sec. 43.253. **LICENSE FEES.** (a) The fee for a primary field trial area license is \$25.

"(b) The fee for each auxiliary field trial area license is \$5.25. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 3.)

"Sec. 43.254. **WHO MAY RECEIVE LICENSES.** (a) The owner or other person holding a possessory interest in land may apply for and receive a primary field trial area license for the land.

"(b) No person may hold more than one primary field trial area license. No person may hold more than six auxiliary field trial area licenses. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 4.)

"Sec. 43.255. **AREAS TO BE MARKED.** (a) Each area covered by a primary field trial area license shall be identified with signs marked as follows: 'Retriever dog field trial area licensed by the Parks and Wildlife Department.'

"(b) Each area covered by an auxiliary field trial area license shall be identified with signs marked as follows: 'Retriever dog auxiliary field trial area licensed by the Parks and Wildlife Department.'

"(c) The signs described in Subsections (a) and (b) of this section shall be placed at each entrance of an area and along the boundaries of the area at intervals not to exceed 1,000 feet in a manner that clearly identifies the boundaries of the area.

"(d) The lettering on each sign must be large enough to permit a person with ordinary vision under ordinary conditions to read the sign from 200 feet away. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 5.)

"Sec. 43.256. **TAKING CAPTIVE-REARED BIRDS PERMITTED.** (a) A person holding a valid Texas hunting license, including a license issued to a nonresident under Section 43.257 of this code, may hunt and take captive-reared birds on land covered by a primary field trial area license or an auxiliary field trial area license at any time during a member field trial, a licensed field trial, a sanctioned field trial, or during retriever dog training.

"(b) Subsection (a) of this section does not apply unless the person is registered as provided in Section 43.258 of this code. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 6.)

"Sec. 43.257. **LIMITED NONRESIDENT HUNTING LICENSE.** (a) A nonresident may apply to the department or its agent for a nonresident field trial area hunting license, that permits the holder to hunt and take captive-reared birds on land covered by a primary field trial area license or an auxiliary field trial area license during a member field trial, a licensed field trial, or a sanctioned field trial only.

"(b) The license fee for the nonresident field trial hunting license is \$5.25.

"(c) A nonresident field trial hunting license expires on December 31 of the year for which it is issued. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 7.)

"Sec. 43.258. **RECORD BOOK.** The holder of a primary field trial area license or the manager of an area covered by any field trial area license shall keep a suitable record book and shall enter in the book the name and address and hunting license number of each guest participating in a member, licensed, or sanctioned field trial on the primary or an auxiliary area. The license holder or manager shall enter in the book the number and species of captive-reared birds acquired for the area or areas, the date of acquisition of the birds, the name of the seller, the number and species of captive-reared birds taken on the area or areas, and the disposition of all captive-reared birds taken on the area or areas. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 8.)

"Sec. 43.259. **BIRDS TO BE BANDED.** (a) No person may release a captive-reared bird on a primary or auxiliary field trial area licensed under this subchapter unless the bird is banded with tag of a type approved by the department and which contains the license number of the area.

"(b) No person may remove from a captive-reared bird the tag required by Subsection (a) of this section until the bird is finally processed.

"Sec. 43.260. **PROHIBITED ACTS.** (a) No person may:

"(1) fail to mark the entrances and boundaries of a primary or auxiliary field trial area as required by Section 43.255 of this code;

"(2) fail to keep a record book as required by Section 43.258 of this code;

"(3) violate Section 43.259 of this code; or

"(4) represent to others that he is the owner or manager of land covered by a primary or auxiliary field trial area when in fact he is not the owner or manager or when the land is not in fact licensed as permitted by this subchapter.

"(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 10.)

"Sec. 43.261. **HUNTING DURING SEASON NOT PROHIBITED.** This subchapter does not prohibit the hunting of game birds by any lawful method or the operation of field trials during an open season for the taking of game birds as provided by law. (Acts 64th Legis., Reg. Sess., S.B. No. 658, Sec. 11.)"

Sec. 11. Section 21.111, Parks and Wildlife Code, is amended to conform to S.B. No. 1003 by adding a Subsection (c) to read as follows:

"(c) If any state park site includes a public beach on the seaward shore of the Gulf of Mexico, extending from the line of mean low tide to the line of vegetation, over which the public has acquired a right of use or easement to or over the area by



prescription or dedication or has retained a right by virtue of continuous right in the public, no entrance or gate fee may be charged to persons desiring to enter or to leave the public beach area, so long as the persons do not enter any other portion of the park for which an entrance or gate fee is charged."

Sec. 12. Amend Section 256.022, Parks and Wildlife Code, to conform to **S.B. No. 1092** and to read as follows:

"Sec. 256.022. QUAIL. A person may hunt quail in McMullen County during the open season beginning on October 15 ~~[November 4]~~ and extending through December 15. (Acts 51st Legis., Reg. Sess., Ch. 183, Sec. 1 (part).)"

Sec. 13. (a) Chapter 77, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** by adding a Section 77.0371 to read as follows:

"Sec. 77.0371. DUPLICATE LICENSE OF TRANSFER OF VESSEL. On the sale of any boat licensed under this subchapter, the department, on receipt of an application from the new owner and the surrender of the original license, shall issue, without charge, a duplicate license reflecting the change of ownership. (V.A.C.S. Art. 4075b, Sec. 5(d) (part), Sec. 7(b) (part).)"

(b) Section 77.085, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** and to read as follows:

"Sec. 77.085. TRY NETS. No person may use, possess, or have on board a boat in inside water a try net or test net exceeding 12 feet in width measured along the corkline or headrope from hanging to hanging ~~[board to board]~~. (V.A.C.S. Art. 4075b, Sec. 6(f) (part).)"

(c) Subsection (a), Section 77.086, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** and to read as follows:

"(a) Except as provided in this subchapter, no person may catch shrimp in the inside water with, or possess or have on board a boat in the coastal water for use in inside water, a trawl and bag or trawl liner having a mesh size of less than eight and three-fourths inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl or bag has been placed in use. The measurement shall be made in the section of the trawl which is normally under tension when in use."

(d) Section 77.087, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** and to read as follows:

"Sec. 77.087. NET WIDTH. During the period from August 15 to December 15 of each year, both dates inclusive, no person may catch shrimp of any size or species in the major bays with more than one net or a net exceeding 65 feet in width measured along the corkline or headrope from hanging to hanging ~~[board to board or between the extremes of any other spreading device]~~. This section does not apply to try nets or test nets. (V.A.C.S. Art. 4075b, Sec. 6(f) (part).)"

(e) Section 77.093, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** and to read as follows:

"Sec. 77.093. COMMERCIAL SHRIMP NETS. In major bays of inside water during the period from May 15 to July 15, no licensed commercial bay shrimp boat operator may catch shrimp with more than one net at a time, except a try net, or with a net:

"(1) exceeding 25 feet in length measured along the corkline or headrope from hanging to hanging ~~[board to board or between the extremes of any other spreading device]~~; or

"(2) having meshes, including the meshes of the bag or liner, in excess of six and one-half inches between the most widely separated knots in any consecutive series of five stretched meshes after the net or bag has been placed in use. (V.A.C.S. Art. 4075b, Sec. 6(g) (part).)"

(f) Section 77.096, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** and to read as follows:

"Sec. 77.096. **COMMERCIAL BAIT-SHRIMP NETS.** No licensed commercial bait-shrimp boat operator may catch shrimp in inside water with:

"(1) more than one net at a time, except that one try net not exceeding five feet in width as measured along the corkline or headrope from hanging to hanging ~~board to board~~ may also be used;

"(2) a net exceeding 25 feet in width measured along the corkline or headrope from hanging to hanging ~~board to board or between the extremes of any other spreading device~~; or

"(3) a net or bag having a mesh size of not less than six and one-half inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the net or bag has been placed in use. (V.A.C.S. Art. 4075b, Sec. 6(h) (part).)"

(g) Subsection (e), Section 77.031, Parks and Wildlife Code, is amended to conform to H.B. No. 516 and to read as follows:

"(e) Except as provided in Section 77.0371 of this code, not ~~Not~~ more than one commercial bay shrimp boat license may be issued to a boat during the licensing period."

(h) Subsection (d), Section 77.035, Parks and Wildlife Code, is amended to conform to H.B. No. 516 and to read as follows:

"(d) Except as provided in Section 77.0371 of this code, not ~~Not~~ more than one commercial gulf shrimp boat license may be issued to a boat during the licensing period."

(i) Subsection (a), Section 77.022, Parks and Wildlife Code, is amended to conform to H.B. No. 516 and to read as follows:

"(a) When a vessel is involved in a violation of this chapter, the captain of the vessel shall ~~may~~ be considered primarily responsible for the violation ~~and each crew member may also be held responsible. Punishment for the violation shall be assessed only against the captain and crew members, or one of them, actually found guilty of the violation.~~ A member of the crew of a vessel shall not be guilty of a violation unless it also be charged that the member of the crew acted in violation of the orders of the captain of the vessel."

(j) Chapter 77, Parks and Wildlife Code, is amended to conform to H.B. No. 516 by adding a Section 77.025 to read as follows:

"Sec. 77.025. **PERIOD OF LIMITATION.** Except as provided in Article 12.05, Code of Criminal Procedure, 1965, as amended, an indictment or information for a violation of this chapter may be presented within one year after the date of the commission of the offense and not afterward. (V.A.C.S. Art. 4075b, Sec. 13(i).)"

(k) Section 12.109, Parks and Wildlife Code, is amended to conform to H.B. No. 516 and to read as follows:

"Sec. 12.109. **CONFISCATED MARINE LIFE.** (a) When an enforcement officer of the department believes that a person has unlawful possession of any fish, oysters, shrimp, or other marine life, he shall seize and sell the marine life and dispose of the proceeds as provided in this section ~~deliver it to a court of competent jurisdiction in the county where the marine life was seized~~. If the person is in possession of a greater quantity of marine life than is authorized by law, all such marine life shall be deemed to have been taken in contravention of the law and shall be seized by the arresting officer. The officer shall give to the person a receipt for all marine life seized.

"(b) The confiscated ~~court shall order the~~ marine life shall be sold to the highest of three bidders ~~bidder at a price not less than the prevailing market price~~. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund No. 900 ~~with the court~~ pending the outcome of the action taken against the person charged with illegal possession.

"(c) Unless the person is found guilty, all the proceeds shall be ~~On conclusion of the action, the court, in its discretion, may order the proceeds of the sale either deposited in the state treasury to the credit of the special game and fish fund or~~ paid to

the owner of the marine life. (P.C. Art. 897a.)"

(l) Section 47.034, Parks and Wildlife Code, is amended to conform to **H.B. No. 516** by adding a Subsection (e) to read as follows:

"(e) The possession of saltwater species of fish of greater or lesser length than set out in Subsection (c) of this section on board a licensed commercial shrimp boat engaged in the taking of shrimp or returning to port after taking shrimp is not a violation of this section."

Sec. 14. Chapter 151, Parks and Wildlife Code, is amended to conform to **H.B. No. 517** by adding Section 151.002 to read as follows:

"Sec. 151.002. REGULATORY ACT: SPECIAL QUAIL SEASON. The proclamations of the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code) shall provide for an open season for the hunting of wild quail of all varieties in Cottle County beginning on December 1 of one year and extending through January 15 of the following year. (V.A.P.C. Art. 978j-1, Sec. 1 (part).)"

Sec. 15. Chapter 62, Parks and Wildlife Code, is amended to conform to **H.B. No. 793** by adding Section 62.011 to read as follows:

"Sec. 62.011. RETRIEVAL AND WASTE OF GAME. (a) It is an offense if a person while lawfully hunting kills or wounds a game bird or game animal and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or bird and include it in the person's daily or seasonal bag limit.

"(b) It is an offense if a person intentionally takes a game bird, game animal, or a fish, other than a rough fish, and intentionally, knowingly, or recklessly, or with criminal negligence, fails to keep the edible portions of the bird, animal, or fish in an edible condition.

"(c) An offense under this section is a misdemeanor the punishment for which is a fine of not less than \$25 nor more than \$200. (Acts 64th Legis., Reg. Sess., **H.B. No. 793**.)"

Sec. 16. Section 116.012, Section 116.013, Subsection (a) of Section 116.017, Section 127.012, Section 127.013, Subsection (a) of Section 127.017, Section 186.012, Section 186.013, Subsection (a) of Section 186.017, Section 230.012, Section 230.013, Subsection (a) of Section 230.017, Section 250.012, Section 250.013, Subsection (a) of Section 250.017, Section 254.012, Section 254.013, Subsection (a) of Section 254.017, Section 260.012, Section 260.013, Subsection (a) of Section 260.017, Section 306.012, Section 306.013, Subsection (a) of Section 306.017, Section 327.012, Section 327.013, and Subsection (a) of Section 327.017, Parks and Wildlife Code, are amended to conform to **H.B. No. 1061** and to read as follows:

"Sec. 116.012. OPEN ARCHERY SEASON. (a) The open archery season in Blanco County begins on October 1 and extends through October 31 of each year ~~(is the 30 calendar days immediately preceding the open season for hunting deer in Blanco County as provided by law or by proclamation of the department)~~.

"(b) During the open archery season a person may hunt, take, and kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 116.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt, take, or kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Blanco County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 116.017] (a) No person may hunt, kill, or take wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Blanco County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 127.012. OPEN ARCHERY SEASON. (a) The open archery season in Burnet County begins on October 1 and extends through October 31 each year ~~is 30 calendar days immediately preceding the open season for hunting deer in Burnet County as provided by law or by proclamation of the department~~.

"(b) During the open archery season, a person may hunt, take, and kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 127.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt, take, or kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Burnet County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 127.017] (a) No person may hunt, kill, or take wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Burnet County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 186.012. OPEN ARCHERY SEASON. (a) The open archery season in Gillespie County begins on October 1 and extends through October 31 each year ~~is 30 calendar days immediately preceding the open season for hunting deer in Gillespie County as provided by this code or by proclamation of the department~~.

"(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 186.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 186.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Gillespie County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 230.012. OPEN ARCHERY SEASON. (a) The open archery season in Kendall County begins on October 1 and extends through October 31 each year ~~is 30~~

~~calendar days immediately preceding the open season for hunting deer in Kendall County as provided by law or by proclamation of the department].~~

"(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers, or bearded hens and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 230.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Kendall County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 230.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Kendall County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 250.012. OPEN ARCHERY SEASON. (a) The open archery season in Llano County begins on October 1 and extends through October 31 each year ~~is 30 calendar days immediately preceding the open season for hunting deer in Llano County as provided by this code or by proclamation of the department].~~

"(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 250.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt wild buck deer, wild bear, wild antlerless deer, wild turkey gobblers or bearded hens, and collared peccary (javelina) in Llano County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 250.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp in Llano County."

"Sec. 254.012. OPEN ARCHERY SEASON. (a) The open archery season in McCulloch County begins on October 1 and extends through October 31 each year ~~is 30 calendar days immediately preceding the open season for hunting deer in McCulloch County as provided by law or by proclamation of the department].~~

"(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers, or bearded hens and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 254.013. **PROHIBITED ARCHERY EQUIPMENT.** No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in McCulloch County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 254.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in McCulloch County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 260.012. **OPEN ARCHERY SEASON.** (a) The open archery season in Mason County begins on October 1 and extends through October 31 each year ~~(is 30 calendar days immediately preceding the open season for hunting deer in Mason County as provided by law or by proclamation of the department).~~

"(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 260.013. **PROHIBITED ARCHERY EQUIPMENT.** No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Mason County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 260.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Mason County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp."

"Sec. 306.012. **OPEN ARCHERY SEASON.** (a) The open archery season in San Saba County begins on October 1 and extends through October 31 each year ~~(is 30 calendar days immediately preceding the open season for hunting deer in San Saba County as provided by this code or by proclamation of the department).~~

"(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 2.)

"Sec. 306.013. **PROHIBITED ARCHERY EQUIPMENT.** No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) in San Saba County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 306.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp in San Saba County."

"Sec. 327.012. OPEN ARCHERY SEASON. (a) The open archery season in Travis County begins on October 1 and extends through October 31 each year ~~is 30 calendar days immediately preceding the open season for hunting deer in Travis County as provided by law or by proclamation of the department~~.

"(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 1 (part), 2.)

"Sec. 327.013. PROHIBITED ARCHERY EQUIPMENT. No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Travis County by means of:

"(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

"(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

"(3) arrows that do not have on them in a nonwater-soluble medium the name and address of the user; or

"(4) poisoned, drugged, or explosive arrows. (Acts 59th Legis., Reg. Sess., Ch. 428, Sec. 4.)"

"[Sec. 327.017] (a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Travis County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or hunting camp."

Sec. 17. Chapter 12, Parks and Wildlife Code, is amended to conform to H.B. No. 1278 by adding Section 12.015 to read as follows:

"Sec. 12.015. NOXIOUS AQUATIC PLANTS. (a) In this section, 'noxious aquatic plant' means a plant that thrives in water, marshes, or swamps and that:

"(1) is harmful or potentially harmful to human life;

"(2) may impede navigation; or

"(3) may diminish the quality of water-oriented recreational areas.

"(b) The department shall:

"(1) identify noxious aquatic plants;

"(2) publish a list of the names of noxious aquatic plants identified by the department; and

"(3) make rules and regulations necessary to carry out this section.

"(c) The department may issue permits for the importation, sale, transport, or release of noxious aquatic plants identified by the department if the department finds that the proposed use of the noxious aquatic plants by the permit applicant will not pose a danger to persons, wildlife resources, or water resources.

"(d) No person may intentionally or knowingly import or intentionally or knowingly sell, transport, or release in this state a noxious aquatic plant identified by the department unless the person has an unexpired written permit issued by the department authorizing the importation, sale, transportation, or release.

"(e) A person who violates Subsection (d) of this section or who violates a regulation of the department made under this section is guilty of a misdemeanor and on

conviction is punishable by a fine of not less than \$50 nor more than \$200. (Acts 64th Legis., Reg. Sess., **H.B. No. 1278.**)"

Sec. 18. Subsection (c), Section 76.115, Parks and Wildlife Code, is amended to conform to **H.B. No. 1280** and to read as follows:

"(c) Before closing any area, the commissioner shall post notices of the closing in fish and oyster houses in two towns nearest the area to be closed and shall publish notice in a daily newspaper of general circulation in the area to be closed. The notices ~~[notice]~~ shall be posted and published at least three days ~~[two weeks]~~ before the effective date of the closing."

Sec. 19. (a) Subchapter C, Chapter 136, Parks and Wildlife Code, is amended to conform to **H. B. No. 1356** by adding Section 136.022 to read as follows:

"Sec. 136.022. DEER. (a) No person may hunt wild deer in Chambers County.

"(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500.

"(c) This section expires on November 16, 1980. (Acts 57th Legis., Reg. Sess., Ch. 143.)"

(b) Chapter 143, Acts of the 57th Legislature, Regular Session, 1961, as last amended by House Bill No. 1356, Acts of the 64th Legislature, Regular Session, 1975, is repealed to conform to House Bill No. 1356 and the provisions of Subsection (a) of this section.

Sec. 20. (a) Section 77.001, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** by adding Subdivision (13) to read as follows:

"(13) 'Contiguous Zone,' means that area of the Gulf of Mexico lying adjacent to and offshore of the jurisdiction of the State of Texas and in which shrimp of the genus *Penaeus* are found."

(b) Sections 77.061 and 77.062, Parks and Wildlife Code, are amended to conform to **H.B. No. 1489** and to read as follows:

"Sec. 77.061. GENERAL CLOSED SEASON. Except as specifically provided in this subchapter, no person may catch shrimp in outside water:

"(1) from June 1 to July 15, both dates inclusive, or during a ~~[45-day]~~ period provided under Section 77.062 of this code, as applicable; or

"(2) extending from the coastline of Texas up to and including seven fathoms in depth from December 16 of each year to February 1 of the following year, both dates inclusive, unless taking sea bobs. (V.A.C.S. Art. 4075b, Sec. 7(c) (part), (e), (g) (part).)

"Sec. 77.062. CHANGE IN GENERAL CLOSED SEASON. Based on sound biological data, the commission may change the opening and closing dates of the June 1 to July 15 closed season to provide for an earlier, later, or longer season not to exceed 60 days. The commission may change the closing date with 72 hours public notice and may reopen the season with 24 hours notice. The commission may delegate to the director the duties and responsibilities of opening and closing the shrimping season under this section. ~~[department may prescribe a 45-day closed notice in outside water beginning not sooner than May 17 and ending not later than July 30.]~~ (V.A.C.S. Art. 4075b, Sec. 7(c) (part).)"

(c) Chapter 77, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** by adding a Section 77.0621 to read as follows:

"Sec. 77.0621. CONTIGUOUS ZONE SEASON. Except as specifically provided in this subchapter, no citizen of this state may catch from the contiguous zone shrimp during a closed season as provided in Subdivision (1) of Section 77.061 of this code, including a closed season modified as provided in Section 77.062 of this code. (V.A.C.S. Art. 4075b, Sec. 7(c) (part).)"

(d) Section 77.070, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** and to read as follows:



"Sec. 77.070. POSSESSION OF SHRIMP. Except as permitted by Section 77.065 and Section 77.067 of this code, no person may possess or have on board a boat in coastal water, or buy, sell, unload, transport, or handle in any way, shrimp caught in the outside water during the closed season or shrimp taken unlawfully from the contiguous zone during the closed season. (V.A.C.S. Art. 4075b, Sec. 7(c) (part).)"

(e) Section 77.065, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** and to read as follows:

"Sec. 77.065. WHITE SHRIMP. (a) A licensed commercial gulf shrimp boat operator may catch white shrimp in the outside water not exceeding four fathoms in depth from June 1 to July 15, both dates inclusive, or during the ~~[45-day]~~ period prescribed under Section 77.062 of this code.

"(b) No more than one net may be used at a time, except a try net, and the trawl may not exceed 25 feet in width as measured along the corkline or headrope from hanging to hanging ~~[board to board or between the extremes of any other spreading device].~~ (V.A.C.S. Art. 4075b, Sec. 7(c) (part).)"

(f) Chapter 77, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** by adding a Section 77.071 to read as follows:

"Sec. 77.071. REGULATIONS IN CONTIGUOUS ZONE. (a) The department shall not enforce any regulations in the contiguous zone if it determines that the shrimp it desires to manage are being harvested on a meaningful basis by vessels not subject to the same or similar regulations.

"(b) The department may negotiate reciprocal agreements with another state with respect to the application of one state's shrimping regulations in its contiguous zone to citizens of the other state. (V.A.C.S. Art. 4075b, Sec. 13(c) (part).)"

(g) Chapter 77, Parks and Wildlife Code, is amended to conform to **H.B. No. 1489** by adding a Section 77.025 to read as follows:

"Sec. 77.025. CONFISCATION AND DISPOSAL OF SHRIMP. When an enforcement officer of the department believes that a person has unlawful possession of any shrimp taken in violation of this chapter, all shrimp aboard any vessel involved or in the trawl, whether in storage, on deck, and whether alive or dead, whole or headed, frozen or fresh, shall be deemed to have been taken in violation of the chapter and shall be confiscated by the arresting officer. The cargo of shrimp shall be sold to the highest of three bidders by the officer. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund number 900, pending the outcome of the action taken against the person charged with the illegal possession. Unless the person is found guilty, all the proceeds shall be paid to the defendant. (V.A.C.S. Art. 4075b, Sec. 13(aa).)"

Sec. 21. Subsection (e), Section 61.202, Parks and Wildlife Code, is amended to conform with **H.B. No. 1522** and to read as follows:

"(e) This section applies only to Bandera, Coke, Crockett, Dimmit, Edwards, Grayson, Frio, Hays, Kerr, Kimble, Kinney, Lampasas, Medina, Menard, Reagan, Real, Robertson, San Saba, Schleicher, Sutton, Uvalde, Val Verde, and Zavala counties. ~~[This section applies to Lamb County for setting the open season on quail only.]~~"

Sec. 22. Subchapter A, Chapter 169, Parks and Wildlife Code, is amended to conform to **H.B. No. 1640** by adding a Section 169.002 to read as follows:

"Sec. 169.002. MANDATORY PROCLAMATION. (a) The proclamations of the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code) shall prohibit the hunting of doe deer in Edwards County.

"(b) This section expires January 1, 1977. (V.A.P.C. Art. 978j-1, Sec. 13(r).)"

Sec. 23. Section 43.101, Parks and Wildlife Code, is amended to conform to House Bill No. 2203 and to read as follows:

"Sec. 43.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the following counties: Andrews, Archer, Armstrong, Atascosa, Bailey, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe,

Brown, Burnet, Caldwell, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fisher, Floyd, Foard, Frio, Gaines, Garza, Gillespie, Glasscock, Gray, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, LaSalle, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McMullen, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Robertson, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Upton, Uvalde, Val Verde, Ward, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Yoakum, Young, Zavala. (Acts 63rd Legis., Ch. 147, Sec. 10.)"

Sec. 24. Section 138.011, Parks and Wildlife Code, is amended to conform to H.B. No. 2246 and to read as follows:

"Sec. 138.011. DEER. (a) No person may hunt wild deer north of U.S. Highway 84 in Cherokee County except during the open season for the taking of deer beginning on November 16 and extending through November 30 of each year.

"(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. (Acts 64th Legis., Reg. Sess., H.B. No. 2246.) [No person may take or kill or attempt to take or kill any wild deer north of U.S. Highway 84 in Cherokee County before November 16, 1975.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. (Acts 60th Legis., Reg. Sess., Ch. 409.)]"

Sec. 25. Chapter 258, Parks and Wildlife Code, is amended to conform to H.B. No. 2245 by adding a Section 258.033 to read as follows:

"Sec. 258.033. TURKEY. (a) No person may hunt or kill wild turkey in Marion County.

"(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

"(c) This section expires on September 1, 1980. (Acts 64th Legis., Reg. Sess., H.B. 2245.)"

Sec. 101. Each preceding section of this Act takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1975.

Sec. 102. As each section of this Act takes effect, the Act on which it is based is repealed.

Sec. 103. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The House amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed.

**RECORD OF VOTE**

Senator Clower asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

**SENATE BILL 1046 WITH HOUSE AMENDMENTS**

Senator Longoria called **S.B. 1046** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**AMENDMENT NO. 1**

Amend **S.B. 1046** page 5, line 22 by striking the word "be" and substituting therefor the following:

"shall be permitted, but not required, to sit conveniently near the judges or clerks"

**AMENDMENT NO. 2**

Amend **S.B. 1046** by inserting a new Section 20 (and renumbering subsequent sections accordingly) to read as follows:

Sec. 20. Section 90, Texas Election Code, as amended (Article 8.08, Vernon's Texas Election Code), relating to the procedure for accepting a voter for voting, is amended by adding the following subdivision:

"Subdivision 4. Notwithstanding any other provision of this code which prescribes a criminal penalty, an election officer who knowingly violates any provision of this section shall be fined not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not more than 90 days, or be both so fined and imprisoned."

**AMENDMENT NO. 3**

Amend **S.B. 1046** by renumbering Section 20 as new Section 21 and inserting a new Section 20 to read as follows:

Sec. 20. There is hereby appropriated to the Secretary of State out of the General Revenue Fund the amount of \$79,776 for the year ending August 31, 1976 and the amount of \$79,776 for the year ending August 31, 1977 for the purpose of implementing this Act.

**AMENDMENT NO. 4**

Amend **S.B. 1046** by deleting on page 7, lines 15 and 16 the following words "felony of the third degree" and substituting therefor the following "Class A misdemeanor".

**AMENDMENT NO. 5**

Amend **S.B. 1046**, Second Printing by adding the word "sex" between the words "of" and "race" on line 6, page 14.

The House amendments were read.

Senator Longoria moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Adams, Andujar, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Aikin, Braecklein, Mauzy, Moore and Patman.

#### **SENATE BILL 763 WITH HOUSE AMENDMENT**

Senator Meier called **S.B. 763** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **AMENDMENT NO. 1**

Amend Section 1, line 25, by striking the period and adding, "and state funds shall be sued to make payments for children whom the State Department of Public Welfare places for adoption who are recipients of Aid to Families with Dependent Children at the time of the placement."

The House amendment was read.

Senator Meier moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Adams.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Longoria and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 734**.

#### **SENATE BILL 734 WITH HOUSE AMENDMENT**

Senator Longoria called **S.B. 734** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **AMENDMENT NO. 1**

Amend **S.B. 734** to read as follows:

Section 1. **SHORT TITLE.** This Act may be cited as the "Texas Community Development Act of 1975."

Sec. 2. PUBLIC PURPOSES. It is hereby found and declared that the activities specified in Sections 4 and 6 of this Act contribute to the development of viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities for low-income, moderate-income and other persons; and that the objectives of such activities are matters of public interest and legitimate public purposes for municipalities within this state.

Sec. 3. DEFINITIONS. In this Act:

(a) "Community Development Program" means a planned and publicized program of work designed to improve the living and economic conditions of primarily low and moderate income persons, and which includes any of the activities or functions specified for a community development program under this Act.

(b) "Governing body" means the governing body of any municipality in this state.

(c) "Municipality" means any city, town, or village incorporated under the laws of this state.

(d) "Texas Urban Renewal Law" means Chapter 298, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 1269L-3, Vernon's Texas Civil Statutes).

Sec. 4. POWERS OF MUNICIPALITIES; LIMITATIONS. (a) Any municipality is hereby authorized to implement a community development program upon adoption by the governing body of an ordinance or resolution enacting the same.

(b) A community development program implemented by any municipality may include the following activities:

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; appropriate for rehabilitation or conservation activities; appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities or the guidance of urban development; to be used for the provision of public works, facilities, and improvements eligible for assistance under this Act, or to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation of public works, facilities, and sites or other improvements--including neighborhood facilities, senior centers, historic properties, utilities, streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways and parks, playgrounds, and recreation facilities, flood and drainage facilities, and parking facilities, solid waste disposal facilities, and fire protection services and facilities which are located in or which serve designated community development areas;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements (including interim assistance and financing the rehabilitation of privately-owned properties when incidental to other activities);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities under this title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this Act or its retention for public purposes;

(8) provision of public services not otherwise available in areas where other activities authorized under this Act are being carried out, if such services are determined to be necessary or appropriate to support such other activities, and/or if such services are directed toward improving the community's public services and facilities, including those concerned with the employment, economic development, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and coordinating public and private development programs;

(9) payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of a local community development program;

(10) payment of the cost of completing a project funded under Title I of the federal Housing Act of 1949;

(11) relocation payments and assistance for individuals, families, businesses, organizations, and farm operations displaced by activities assisted under this Act;

(12) activities necessary to develop a comprehensive community development plan, and to develop a policy-planning-management capacity, so that recipients of assistance under this Act may more rationally and effectively determine their needs, set long-term goals and objectives, devise programs and activities to meet these goals and objectives, evaluate the progress of such programs in accomplishing these goals and objectives, and carry out management, coordination, and monitoring of activities necessary for effective planning implementation; and

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provisions of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities.

(c) Any municipality may provide for and implement programs to provide financing for the rehabilitation of privately-owned buildings through the use of loans and grants from federal money remitted to a municipality for the purposes of this Act; except that municipalities are prohibited from providing municipal property or funds for private purposes. Any program established for financing the rehabilitation of buildings from federal funds may prescribe procedures under which the owner(s) of such building(s) shall agree to partially or fully reimburse the municipality for the cost of such rehabilitation.

Sec. 5. REQUIRED PROCEDURES. Prior to the exercise of powers established under Section 4 of this Act, the governing body of any municipality shall:

(a) identify areas of the municipality in which predominately low and moderate income persons dwell, and set out within the community development program areas of the municipality where community development activities, building rehabilitation, or the acquisition of privately-owned buildings or land are proposed to be undertaken; and

(b) adopt, by resolution or ordinance, a plan under which citizens may publicly comment on the proposed community development program; and

(c) conduct public hearings on the proposed community development program at least 15 days prior to its final adoption by the governing body; and

(d) adopt the provisions of the community development program by resolution or ordinance.

Sec. 6. LIMITATIONS ON POWERS OF CONDEMNATION, ACQUISITION AND RESALE OF PROPERTY. For the purpose of implementing any of the activities enumerated under Sec. 4 of this Act, compliance with Sec. 5 shall be sufficient; provided, however, that no real property may be acquired for the purpose of the rehabilitation or removal of buildings or for the purpose of resale unless ~~the~~ ~~governing body has adopted the provisions of the Texas Urban Renewal Law in the manner prescribed by such Act.~~ ~~the~~

~~(b) In the case of a municipality which has not adopted the provisions of the Texas Urban Renewal Law, the governing body specifically describes, in the ordinance or resolution authorizing the municipality to acquire by condemnation private property or properties for rehabilitation, removal, or resale pursuant to a community development program adopted pursuant to Sec. 5 of this Act:~~

~~(1) the property or properties to be affected by any acquisition by condemnation for the purpose of the rehabilitation or removal of buildings or for the purpose of resale of such condemned property;~~

~~(2) a complete statement of proposed activities;~~

~~(3) the amount of funds to be spent;~~

~~(4) a commitment that no funds or property of the municipality will be used in conjunction with such activities; and~~

~~(5) a finding that no real property will be acquired by condemnation for the purpose of the rehabilitation or removal of buildings or for the purpose of resale except on a parcel by parcel condemnation basis, with notice given each property owner 60 days prior to the initiation of condemnation proceedings, and that any condemnations shall not affect more than 50 percent of the land area in any 10 contiguous city blocks of the municipality.~~

~~(c) Any governing body utilizing procedures under Subsection (b) shall first publish at least three times in a newspaper of general circulation in the municipality notice of the governing body's intention to acquire, by condemnation, property or properties for the purpose of the rehabilitation or removal of buildings or for the purpose of resale of such condemned property, including a description of the same, and such notice shall be published for the first time at least 15 days prior to the day set for the hearing, and shall recite the time and place at which the governing body will first consider the adoption of an ordinance or resolution to effect such acquisition.~~

~~(d) If, within 30 days of the date on which the governing body authorizes the acquisition by condemnation of property or properties for the rehabilitation or removal of buildings or for the purpose of resale, a petition signed by 5 percent of the qualified electors of the municipality is filed with the city clerk or city secretary of the municipality protesting the governing body's proposed action, the governing body is prohibited from proceeding with the same unless and until such action is approved at an election called, held, and conducted in the manner provided for special or general elections by charter or general law. Any such election shall relate only to the acquisition of property by condemnation for the purpose of rehabilitation, removal, or resale, and shall not affect any other community development activities authorized in the community development program adopted by the municipality.~~

#### ~~Sec. 7. DISPOSAL OF PROPERTY.~~

~~(a) A municipality may sell, lease, or otherwise transfer real property or any interest therein acquired by it under the provisions of Sec. 6b of this Act, and may enter into contracts with respect thereto, for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the community development program of the municipality, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be in the public interest or necessary to carry out the purposes of this Act, all of which shall be written into the instrument transferring or conveying title, provided, that such sale, lease, other transfer, or retention of any agreement relating thereto may be made only after approval of the community development program by the governing body of the municipality. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the community development program of the municipality, and may be obligated to comply with conditions enumerated in the deed of conveyance, including the obligation to begin within a reasonable time any improvements on such real property required by the community development program. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than the fair value for uses in~~

accordance with the community development program. In determining the fair value of real property for uses in accordance with the community development program, the governing body shall take into account and give consideration to the uses provided in such program; the restrictions upon, and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the municipality retaining the property; the objectives of such program for the prevention of the recurrence of slums or blighted areas; and such other matters as the governing body shall specify as being appropriate. The governing body may provide in an instrument of conveyance to a private purchaser or lessee that such purchaser or lessee may sell any or all of the unimproved property without profit to the seller. The purchaser, after improving a parcel or parcels of land in accordance with the program of development adopted for the area, may sell the same before he completes the development of the area or tract of land he purchased, provided, however, that such sale of parcel or parcels of improved land will not relieve him from the obligation of completing the development of the area of land that he had purchased. The purchaser likewise may sell a parcel or parcels of land that he has purchased for redevelopment to another person who will be obligated to improve the parcel or parcels purchased by him in accordance with the plan of development for that project, provided, however, that such resale of any unimproved parcel of land will be without profit to the seller and provided that any subsequent purchaser will be obligated to improve the property as provided by the community development program of the municipality and the conditions set forth in the deed of conveyance. Real property acquired by a municipality which, in accordance with the provisions of the community development program of the municipality is to be sold to private developers, shall be sold as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the community development program. Any instrument executed by a municipality and purporting to convey any right, title or interest in any property under this Act shall be presumed to be executed in compliance with the provisions of this Act insofar as title or other interest of any bona fide lessees, transferees, or purchasers of such property is concerned.

(b) All sales of real property pursuant to this Act to private persons shall be sold upon competitive sealed bids after advertising in a newspaper of general circulation in the municipality, said advertisement to be published once at least 15 days before such sale, inviting bids for purchase of real estate in the community development program area in whole or parcels as the governing body may determine. Prior to the advertising for bids for the sale of any real estate, the governing body shall adopt as part of the specifications in the community development program the improvement of conditions that will be binding upon the purchaser, his heirs, assigns or successors in title as the case may be. The governing body shall have the right to accept the highest and best responsible bid, and the purchase price must be paid in cash. If the governing body shall be of the opinion that the bids are not satisfactory in adequacy of price, or bid, it may reject all and readvertise; provided, however, that the governing body will not make a sale of any property unless the price and conditions are approved by the governing body. It is the declared policy of this Act that any real estate acquired in connection with a community development program and rehabilitation project shall be sold by the governing body within a reasonable length of time for purposes applicable to such project, save and except that land the municipality will retain for the use of the general public for municipal purposes. Land to be resold shall be resold within a reasonable time, taking into account general economic conditions at that time.

(c) Any real estate, except improvements to real property not fit for human habitation or improvements to real property declared sub standard, which are acquired in conjunction with a community development program area may be temporarily leased by the governing body, provided that any such temporary lease shall provide for the right of cancellation so that the governing body may sell or dispose of the property for the purposes intended by this Act.



~~(d) Any real property acquired under the terms of this Act which is not, within a reasonable length of time, devoted to a purpose or purposes applicable to the community development program for which it was acquired, may, after notice, be repurchased by the former owner as a matter of right, at the price for which it was acquired from him, less any actual damages sustained by him by virtue of such taking of his land, unless the land be devoted to such purpose or purposes within 60 days after such former owner shall have given the record owner and the municipality notice in writing of his intention to exercise his right of repurchase; provided, that after such repurchase by such former owner, any building or buildings placed or allowed to remain on such property shall be made to conform to the pattern and intent of the community development program if and when it is carried out.~~

~~(e) Any purchaser, lessee, or subsequent purchaser or lessee referred to above as private developers of any portion of the lands acquired under this Act is expressly authorized to give said lands as security for loans for the purpose of financing the development of the property. Such purchasers and lessees are expressly authorized to execute and deliver to any lenders, notes, deeds of trust with powers of sale, mortgages and any other instruments which may be required in connection with obtaining and securing the repayment of such loans, it being the intention of this Act that purchasers, and lessees of such lands have all the rights, titles and incidents of ownership therein which are enjoyed by purchasers and lessees of land generally, and that as such purchasers and lessees they be entitled to mortgage and encumber said lands either for purchase price or for improvements in accordance with the objectives of this Act as any other purchaser or lessee of land in Texas might be entitled to do, and that any subsequent owner or lessee of said land who might acquire title by virtue of a foreclosure of any lien given to secure such indebtedness or by conveyance or assignment in satisfaction of debt shall become the owner or lessee of said land subject only to the restrictive covenants with respect to the use and improvement of said land which might be set forth in the original conveyance from the municipality, and subject in no manner to any condition precedent or condition subsequent which might result in reverter or forfeiture of title and without restraint as to the amount for which said property may thereafter be resold or leased.~~

Sec. 7. [8] CONTINUATION OF URBAN RENEWAL. This Act shall not be construed to alter or change the status, operations, contracts, or obligations of any existing Urban Renewal Agency adopted pursuant to the Texas Urban Renewal Law, nor should any provisions of this Act be construed as to prevent the governing body of any municipality from adopting the provisions of and authority granted under the Texas Urban Renewal Law.

Sec. 8. [9] CUMULATIVE EFFECT. The provisions of this Act shall be cumulative of all existing laws. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient. Further, if a municipality acts under the provisions, hereof such provisions shall control over the charter of said municipality.

Sec. 9. [49] SCOPE. The powers of municipalities described in this Act are granted in addition to all other powers of municipalities, and are intended to be cumulative thereof.

Sec. 10. [4] VALIDATION OF PREVIOUS PROCEEDINGS. All ordinances or resolutions heretofore passed and adopted by the governing body of any such municipality implementing a community development program as defined and authorized by this Act are hereby validated as of the date of such ordinance or resolution, and are declared fully enforceable to the same extent as if such ordinance or resolution had been passed in accordance with laws duly enacted by the legislature of this State specifically providing for the passage and adoption of such ordinances or resolutions. All governmental proceedings and acts heretofore performed by the governing bodies of such municipalities and all officers thereof in implementing a community development program as authorized by this Act are hereby ratified as of

the date of such proceedings and acts.

Sec. 11. ~~[42]~~ SEVERABILITY. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 12. ~~[43]~~ EMERGENCY. The importance of this legislation and the crowded conditions of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The House amendment was read.

Senator Longoria moved to concur in the House amendment.

The motion prevailed.

#### RECORD OF VOTES

Senators Meier, Adams, Aikin and Jones asked to be recorded as voting "Nay" on the motion to concur in House amendments.

#### MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were filed with Secretary of the Senate:

Austin, Texas  
May 31, 1975

The Honorable William P. Hobby  
Lieutenant Governor  
President of the Senate  
Austin, Texas

The Honorable Bill Clayton  
Speaker of the House of Representatives  
Austin, Texas

Honorable Members of the Legislature  
Austin, Texas

Honorable Lt. Governor, Honorable Speaker and Honorable  
Members of the Legislature:

Today, I am submitting as an emergency matter the accompanying measures under the provisions of Article III, Section 5, of the Constitution of the State of Texas.

I urge your prompt consideration and enactment of this legislation.

TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE, REGULAR  
SESSION

Pursuant to the provisions of Section 5, Article III of the Constitution of Texas, I herewith submit as an emergency matter the following:

Senate Bill 521 relating to the disposition of certain fees and charges collected by the East Texas Chest Hospital, the Harlingen State Chest Hospital, and the San Antonio State Chest Hospital;

Senate Bill 1005 making supplemental appropriations to the Industrial Accident Board;

Senate Bill 734 implementing the Texas Community Development Act of 1975;

Senate Bill 262 relating to monopolies, trusts and restraint of trade.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

Austin, Texas  
June 1, 1975

The Honorable William P. Hobby  
Lieutenant Governor  
President of the Senate  
Austin, Texas

The Honorable Bill Clayton  
Speaker of the House of Representatives  
Austin, Texas

Honorable Members of the Legislature  
Austin, Texas

Honorable Lt. Governor, Honorable Speaker and Honorable  
Members of the Legislature:

Today, I am submitting as an emergency matter the accompanying measures under the provisions of Article III, Section 5, of the Constitution of the State of Texas.

I urge your prompt consideration and enactment of this legislation.

TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE, REGULAR  
SESSION

Pursuant to the provisions of Section 5, Article III of the Constitution of Texas, I herewith submit as an emergency matter the following:

Senate Bill 364 reappropriating certain funds to certain institutions of higher learning.

Senate Bill 163 relating to court administration.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

**SENATE BILL 871 WITH HOUSE AMENDMENT**

Senator Doggett called **S.B. 871** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**AMENDMENT NO. 1**

Amend **S.B. 871** by striking all below the enacting clause and substituting the following:

Section 1. Chapter 3, Insurance Code, as amended, is amended by adding Article 3.51-5, to read as follows:

"Article 3.51-5. **PAYMENTS OF GROUP LIFE AND HEALTH INSURANCE PREMIUMS FOR RETIRED EMPLOYEES OF THE TEXAS CENTRAL EDUCATION AGENCY, THE TEXAS REHABILITATION COMMISSION, THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION, THE TEXAS YOUTH COUNCIL, A TEXAS SENIOR COLLEGE OR UNIVERSITY, AND THE COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM.**

"1. The costs of group life and health insurance premiums to persons retired under the Teacher Retirement Act, who at the time of their retirement were employed by the Texas Central Education Agency, the Texas Rehabilitation Commission, the Texas Department of Mental Health and Mental Retardation, the Texas Youth Council, a Texas senior college or university, and the Coordinating Board, Texas College and University System, shall be fully paid from the funds of such agency, commission, institution, or board under the following provisions and conditions: (a) The coverage of this Act shall extend to all such retired persons within the limits of eligibility under state contracts in force on the effective date of this Act or as may be otherwise provided by law; (b) such payment shall be in accordance with rules and regulations established by such agency, commission, institution, or board; (c) such agency, commission, institution, and board shall certify to the Comptroller of Public Accounts and the State Treasurer each month the amount so ascertained each month to such agency, commission, institution, and board; (d) payments shall begin on the first day of the month following the month in which this Act takes effect and shall continue to be paid until otherwise provided by law.

"There is hereby authorized to be paid out of the funds of each agency, commission, institution, or board named in the Act the sums necessary to fund the payments of premiums provided in this Act."

Section 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The House amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 17, Nays 14.

Yeas: Brooks, Doggett, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, McKinnon, Meier, Patman, Santiesteban, Schwartz, Traeger and Williams.

Nays: Adams, Aikin, Andujar, Braecklein, Clower, Creighton, Harris, Mauzy, McKnight, Mengden, Moore, Ogg, Sherman and Snelson.

**VOTE WHICH SENATE CONCURRED IN HOUSE  
AMENDMENTS TO SENATE BILL 871 RECONSIDERED**

Senator Traeger moved that the vote by which the Senate concurred in House amendments to **S.B. 871** be reconsidered.

The motion prevailed.

Question - Shall the Senate concur in House amendments to **S.B. 871**?

**RECESS**

On motion of Senator Aikin the Senate at 12:29 o'clock p.m. took recess until 1:45 o'clock p.m. today.

**AFTER RECESS**

The Senate met at 1:45 o'clock p.m. today and was called to order by the President.

**AT EASE**

The President announced the Senate would stand At Ease until 2:00 o'clock p.m. today.

(Senator Adams in the Chair)

**IN LEGISLATIVE SESSION**

The President called the Senate to order As In Legislative Session at 2:00 o'clock p.m. today.

**MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.C.R. 109**. House Conferees: Presnal, Parker of Denton, Blake, Leland and Nugent.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 240. House Conferees: Bock, Sutton, Leland, Rains and Mattox.

All necessary rules suspended, and the Conference Committee Report on Senate Bill 761 adopted by a vote of 117 Yeas, 26 Nays.

All necessary rules suspended, and the Conference Committee Report on Senate Bill 762 adopted by a vote of 119 Yeas, 25 Nays.

Motion to suspend all necessary rules and reconsider the vote by which the House concurred in Senate amendments to House Bill 201 prevailed by non-record vote and the House requested the appointment of a Conference Committee. House Conferees: McDonald of Hidalgo, Maloney, Lary, Nowlin and Earle.

**H.C.R. 166**, Suspending the joint rules of the House and Senate in order to permit either house to take up and consider **H.B. 1058** at any time.

June 2, 1975 the House has adopted the Conference Committee Report on Senate Bill 839 by a vote of 111 Yeas, 2 Nays, 6 Present-Not voting.

**S.C.R. 100**, Directing the United States Congress in their purchase of new aircraft.

Respectfully submitted,  
**DOROTHY HALLMAN**  
Chief Clerk, House of Representatives

#### **CONFERENCE COMMITTEE ON HOUSE BILL 201**

Senator Adams called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 201** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 201** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Adams, Schwartz, Gammage, Sherman and Farabee.

#### **HOUSE CONCURRENT RESOLUTION 166 ON SECOND READING**

The President laid before the Senate the following resolution:

**H.C.R. 166**, Suspending Joint Rules in order that **H.B. 1058** might be considered at any time.

The resolution was read.

On motion of Senator Hance and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 22, Nays 4.

Yeas: Aikin, Andujar, Braecklein, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, Mauzy, Meier, Ogg,

Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Adams, McKinnon, McKnight and Mengden.

Absent: Brooks, Creighton, Harris, Moore and Schwartz.

**HOUSE CONCURRENT RESOLUTION 127 ORDERED NOT PRINTED**

On motion of Senator Adams and by unanimous consent, **H.C.R. 127** was ordered not printed.

**HOUSE CONCURRENT RESOLUTION 117 ORDERED NOT PRINTED**

On motion of Senator Adams and by unanimous consent **H.C.R. 117** was ordered not printed.

**HOUSE BILL 1058 ORDERED NOT PRINTED**

On motion of Senator Adams and by unanimous consent **H.B. 1058** was ordered not printed.

**HOUSE BILL 1113 ORDERED NOT PRINTED**

On motion of Senator Adams and by unanimous consent **H.B. 1113** was ordered not printed.

**SENATE BILL 5 WITH HOUSE AMENDMENT**

Senator Adams called **S.B. 5** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**FLOOR AMENDMENT NO. 1**

Amend Senate Bill 5 by striking Section 1, lines 11 through 21 and renumbering the following sections.

The House amendment was read.

Senator Adams moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Bracklein, Brooks, Clower, Creighton, Doggett, Farabee Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

**SENATE BILL 980 WITH HOUSE AMENDMENT**

Senator Mauzy called **S.B. 980** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amend S.B. 980 by striking "at the school districts expense" in Section 1(p), i(e).

The House amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed.

#### **SENATE BILL 365 WITH HOUSE AMENDMENTS**

Senator Mauzy called S.B. 365 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **AMENDMENT NO. 1**

Amend S.B. 365, page 1, line 13, by changing the period to a semicolon and adding thereafter the following:

"provided however that such election may not be held on the same date as the election of the governing board of any independent school district in such county unless the election date of all independent school districts in such county is on such date."

#### **AMENDMENT NO. 2**

Amend S.B. 365 by adding a new Sec. 2 to read as follows:

"Sec. 2. Subsection (d), Section 130.086, Texas Education Code, is amended to read as follows:

"(d) Before any course may be offered by a junior college within the district of an operating public junior college it must be established that the public junior college is not capable of or is unable to offer the course. If the course is to be offered in a county which has a population of more than 97,500 persons, according to the last preceding federal census, and which has no state-supported senior college or university within its boundaries, it must also be established that any other college or university in the county is not able and willing to offer the course. After the need is established and the course is not locally available, then the junior college may offer the course when approval is granted by the appropriate state educational agency."

and renumbering the remaining section of the bill.

#### **AMENDMENT NO. 3**

Amend S.B. 365 by striking all above the enacting clause and substituting in lieu thereof the following:

#### **"A BILL TO BE ENTITLED**

#### **"AN ACT**

amending Section 130.082, Texas Education Code, by adding Subsection (i), and amending Subsection (d), Section 130.086, Texas Education Code; relating to the election of members of the governing boards of certain junior college districts and the authority of junior college districts to offer courses at branch campuses, centers, or extension facilities under certain circumstances; and declaring an emergency.'



The House amendments were read.

Senator Mauzy moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Adams.

#### SENATE BILL 696 WITH HOUSE AMENDMENTS

Senator Santiesteban called S.B. 696 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### COMMITTEE AMENDMENT

Amend S.B. 696 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Section 1, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-1, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 1. PURPOSE; DEFINITIONS; SCOPE OF ACT; RULES AND REGULATIONS; STANDARDS FOR POLICY PROVISIONS; MINIMUM STANDARDS; OUTLINE OF COVERAGE; PRE-EXISTING CONDITIONS; ADMINISTRATIVE PROCEDURES

"(A) Purpose. The purpose of this Act shall be to provide for reasonable standardization, readability, and simplification of terms and coverages contained in individual accident and sickness insurance policies; to facilitate public understanding of coverages; to eliminate provisions contained in individual accident and sickness insurance policies which may be unjust, unfair, misleading, or unreasonably confusing in connection either with the purchase of such coverages or with the settlement of claims; and to provide for full and fair disclosure in the sale of accident and sickness coverages.

"(B) [(A)] Definitions. As used in this Act,

"(1) 'Board' shall mean the State Board of Insurance [Commissioners] of the State of Texas.

"(2) 'Commissioner' shall mean the Commissioner of Insurance of the State of Texas.

"(3) 'Policy' [The term 'policy'] of accident and sickness insurance' as used herein, includes any policy or contract providing insurance against loss resulting from sickness or from bodily injury or death by accident or both.

"(4) 'Policy' means the entire contract between the insurer and the insured, including the policy, riders, endorsements, and the application, if attached.

"(C) [(D)] Scope of Act. This Act shall apply to and govern individual accident and sickness insurance policies issued, or issued for delivery, in the State of Texas by life, health and accident companies, mutual life insurance companies, mutual assessment life insurance companies, mutual insurance companies, local mutual aid associations, mutual or natural premium life or casualty insurance companies, general

casualty companies, Lloyds, reciprocal or inter-insurance exchanges, nonprofit hospital, medical, or dental service corporations including but not limited to companies subject to Chapter 20 of this code, as amended, or any other insurer which by law is required to be licensed by the Board ~~[of Insurance Commissioners]~~; provided, however, this Act shall not apply to any society, company or other insurer whose activities are by statute exempt from the control of the Board and which are entitled by statute to an exemption certificate from the Board in evidence of their exempt status, nor to fraternal benefit societies; nor to credit accident and sickness insurance policies written under Article 3.53 of this code, as amended; provided further, that this Act shall not be construed to enlarge the powers of any of the enumerated companies. Conversion policies issued pursuant to a contractual conversion privilege under a group accident and sickness insurance policy shall not be subject to Subsections (D) through (H) of this article.

"(D) Rules and Regulations. The Board is authorized to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of this article.

"(E) Standards for Policy Provisions.

"(1) The Board shall issue reasonable rules and regulations to establish specific standards including standards for readability of policies and for full and fair disclosure, that set forth the manner, content, and required disclosure for the sale of individual policies of accident and sickness insurance which shall be in addition to and in accordance with applicable laws of this state which may cover but shall not be limited to:

- "(a) terms of renewability;
- "(b) initial and subsequent conditions of eligibility;
- "(c) nonduplication of coverage provisions;
- "(d) coverage of dependents;
- "(e) preexisting conditions;
- "(f) termination of insurance;
- "(g) probationary periods;
- "(h) limitations;
- "(i) exceptions;
- "(j) reductions;
- "(k) elimination periods;
- "(l) requirements for replacement;
- "(m) recurrent conditions; and
- "(n) the definition of terms including but not limited to the following: hospital, accident, sickness, injury, physician, accidental means, total disability, partial disability, nervous disorder, guaranteed renewable and noncancellable; provided that any definition of hospital so developed shall not be applicable to companies organized under Chapter 20 of this code.

"(2) The Board may issue rules and regulations that specify prohibited policy provisions, not otherwise specifically authorized by statute, which in the opinion of the Board are unjust, unfair, or unfairly discriminatory to the policyholder, any person insured under the policy, or beneficiary.

"(F) Minimum Standards for Benefits.

"(1) The Board shall issue rules and regulations to establish minimum standards for benefits under each of the following categories of coverage in individual policies of accident and sickness insurance:

- "(a) basic hospital expense coverage;
- "(b) basic medical-surgical expense coverage;
- "(c) hospital confinement indemnity coverage;
- "(d) major medical expense coverage;
- "(e) disability income protection coverage;
- "(f) accident only coverage;

"(g) specified disease or specified accident coverage; and

"(h) limited benefit coverage.

"(2) Nothing in this section shall preclude the issuance of any policy which combines two or more of the categories of coverage enumerated in Paragraphs (a) through (h) of Subsection (1) of this section.

"(3) No policy shall be issued, or issued for delivery, in the State of Texas which does not meet the prescribed minimum standards for the categories of coverage listed in Paragraphs (a) through (h) of Subsection (1) of this section which are contained within the policy unless the Board finds such policy to be a supplemental policy, a policy experimental in nature or finds such policy will fulfill a reasonable public need and such policy meets the requirements set forth in Article 3.42 of the Insurance Code.

"(4) The Board shall prescribe the method of identification of policies based on coverages provided.

"(G) Outline of Coverage.

"(1) In order to provide for full and fair disclosure in the sale of individual accident and sickness insurance policies, no such policy shall be issued, or issued for delivery, in the State of Texas unless: (i) in the case of a direct response insurance product, the outline of coverage described in Subsection (2) of this section accompanies the policy; (ii) in all other cases, the outline of coverage described in Subsection (2) of this section is delivered to the applicant at the time application is made and an acknowledgement of receipt or certificate of delivery of such outline is provided the insurer with the application. In the event the policy is issued on a basis other than that applied for, the outline of coverage properly describing the policy must accompany the policy when it is delivered and clearly state that it is not the policy for which application was made.

"(2) The Board shall prescribe the format and content of the outline of coverage required by Subsection (1) of this section. 'Format' means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

"(a) a statement identifying the applicable category or categories of coverage provided by the policy as prescribed in Section (F) of this article;

"(b) a description of the principal benefits and coverage provided in the policy;

"(c) a statement of the exceptions, reductions, and limitations contained in the policy;

"(d) a statement of the renewal provision including any reservation by the insurer of a right to change premiums;

"(e) a statement that the outline is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

"(f) a summary of such provisions required to be in the policy by Section 3, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 3.70-3, Vernon's Texas Insurance Code), as the Board may determine to be necessary to carry out the purposes of this Act.

"(g) Any other statements, descriptions, or outlines that the Board may determine to be reasonably necessary to carry out the purposes of this Act.

"(H) Pre-existing Conditions. (1) Notwithstanding the provisions of Section 3(A)(2)(b), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 3.70-3, Vernon's Texas Insurance Code), if an insurer elects to use a simplified application form, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history, the policy must cover any loss occurring after 12 months from any preexisting condition not specifically excluded from coverage by terms of the policy. (2) Notwithstanding the provisions of Section 3(A)(2)(b), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 3.70-3, Vernon's Texas Insurance Code), or of Paragraph (1) of this subsection, no individual

policy of accident and sickness insurance issued or issued for delivery in this state to a person age 65 or over may contain a provision excluding from coverage any loss due to a preexisting condition, not specifically excluded from coverage by name or specific description in an exclusion endorsement or rider effective on the date of the loss, for a period in excess of six months from the effective date of coverage under the policy; provided, however, that if the Board finds that the public interest would be served thereby, it may authorize a policy provision excluding coverage for preexisting conditions for a period in excess of six months but in no event shall such period exceed one year. (3) Except as so provided, a policy issued under the provisions of this section may not include wording that would permit a defense based on preexisting conditions.

"(I) Administrative Procedures. Rules and regulations promulgated pursuant to this Article shall be subject to notice and hearing pursuant to Section 10, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-10, Vernon's Texas Insurance Code).

Sec. 2. Subsection (A), Section 3, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-3, Vernon's Texas Insurance Code), is amended to read as follows:

"(A) Required Provisions. Except as provided in paragraph (C) of this section each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section; provided, however, that the insurer may, at its option, substitute for one or more of such provisions, ~~corresponding~~ provisions of different wording approved by the Board, in accordance with reasonable rules and regulations promulgated by the Board, which are in each instance not less favorable in any respect to the insured or the beneficiary; and provided further that Provisions 6, 8, and 9 shall not be required provisions under this Subsection A for companies organized under Chapter 20 of this code. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Board may approve.

"(1) A provision as follows:

"Entire Contract; Changes. This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

"(2) A provision as follows:

"Time Limit on Certain Defenses: (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

"(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of Section 3(B), (1), (2), (3), (4), and (5) in the event of misstatement with respect to age or occupation or other insurance.)

"(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption 'incontestable':

"After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.)

"(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or

denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

“(3) A provision as follows:

“Grace Period: A grace period of ..... (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies, and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

“(A policy which contains a cancellation provision may add, at the end of the above provision, subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

“A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision:

“Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.)

“(4) A provision as follows:

“Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement.

“(The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue.)

“(5) A provision as follows:

“Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ..... (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

“(In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

“Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every ..... (insert a number not less than one nor more than six) months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of ..... (insert a

number not less than one nor more than six) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of ..... (insert a number not less than one nor more than six) months preceding the date on which such notice is actually given.)

“(6) A provision as follows:

“Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

“(7) A provision as follows:

“Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible; and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

“(8) A provision as follows:

“Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ..... (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

“(9) A provision as follows:

“Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

“(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

“If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$..... (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

“Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the

service be rendered by a particular hospital or person.)

"(10) A provision as follows:

"Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

"(11) A provision as follows:

"Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

"(12) A provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

"(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)"

Sec. 3. Subsection (B), Section 3, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-3, Vernon's Texas Insurance Code), is amended to read as follows:

"(B) Other Provisions. Except as provided in paragraph (C) of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section; provided, however, that the insurer may, at its option, use in lieu of any such provision a ~~corresponding~~ provision of different wording approved by the Board, in accordance with reasonable rules and regulations promulgated by the Board, which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Board may approve.

"(1) A provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro-rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

"(2) A provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

"(3) A provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of \$..... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate;

"or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

~~"(4) A provision as follows:~~

~~"Insurance With Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.~~

~~"(If the foregoing policy provision is included in a policy which also contains the next following policy provision, there shall be added to the caption of the foregoing provision the phrase: 'Expense Incurred Benefits'. The insurer may, at its option, include in this provision a definition of 'other valid coverage,' approved as to form by the Board, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the Board. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise, shall in all cases be deemed to be 'other valid coverage' of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as 'other valid coverage'.)~~

~~"(5) A provision as follows:~~

~~"Insurance With Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this~~



policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

~~"(If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase: 'Other Benefits'. The insurer may, at its option, include in this provision a definition of 'other valid coverage,' approved as to form by the Board, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the Board. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be 'other valid coverage' of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as 'other valid coverage'.))~~

~~"(6) [(6)]~~ A provision as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro-rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of Two Hundred Dollars (\$200.00) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

~~"(The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of 'valid loss of time coverage,' approved as to form by the Board, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the Board or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)~~

~~"(7) [(7)]~~ A provision as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

"(8) ~~((8))~~ A provision as follows:

"Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro-rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

"(9) ~~((9))~~ A provision as follows:

"Conformity With State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

"(10) ~~((10))~~ A provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

"(11) ~~((11))~~ A provision as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

Sec. 4. Article 3.42, Insurance Code, as amended, is amended to read as follows:

#### "Article 3.42. POLICY FORM APPROVAL

"(a) No policy, contract or certificate of life, term or endowment insurance, group life or term insurance, industrial life insurance, accident or health insurance, group accident or health insurance, hospitalization insurance, group hospitalization insurance, medical or surgical insurance, group medical or surgical insurance, or fraternal benefit insurance, and no annuity or pure endowment contract or group annuity contract, shall be delivered, issued or used in this state by a life, accident, health or casualty insurance company, a mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service or any other insurer, unless the form of said policy, contract or certificate has been filed with the State Board of Insurance ~~[Commissioners]~~ and approved by said Board as provided in Paragraph (c) of this Article. Provided, however, that this Article shall not apply to any society, company or other insurer whose activities are by statute exempt from the control of the State Board of Insurance ~~[Commissioners]~~ and which is entitled by statute to an exemption certificate from said Board in evidence of its exempt status; provided, further, that this Act shall not be construed to enlarge the powers of any of the insurers subject to this Article.

"(b) No application form which is required to be or is attached to the policy, contract or certificate, and no rider or endorsement to be attached to, printed upon or used in connection with any policy, contract or certificate described in Paragraph (a) of this Article shall be delivered, issued or used in this state by any insurer described in Paragraph (a) of this Article unless the form of said application, rider or endorsement has been filed with the State Board of Insurance ~~[Commissioners]~~ and approved by said Board as provided in Paragraph (c) of this Article. Each individual accident and sickness insurance policy application form, which is required to be or is attached to the

policy, shall comply with the rules and regulations of the Board promulgated pursuant to Subchapter G of this chapter. Provided, however, that this Article shall not apply to riders or endorsements which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policies, contracts and certificates, and which are used at the request of the holder of the policy, contract or certificate.

"(c) Every such filing hereby required shall be made not less than thirty days in advance of any such issuance, delivery or use. At the expiration of thirty days the form so filed shall be deemed approved by the State Board of Insurance [~~Commissioners~~] unless prior thereto it has been affirmatively approved or disapproved by the written order of said Board. The State Board of Insurance [~~Commissioners~~] may extend by not more than an additional thirty days the period within which it may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial fifteen day period and at the expiration of any such extended period, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The State Board of Insurance [~~Commissioners~~] may withdraw any such approval at any time. Approval of any such form by such Board shall constitute a waiver of any unexpired portion of the waiting period, or periods, herein provided.

"(d) The order of the State Board of Insurance [~~Commissioners~~] disapproving any such form or withdrawing a previous approval shall state the grounds for such disapproval or withdrawal.

"(e) The State Board of Insurance [~~Commissioners~~] may, by written order, exempt from the requirements of this Article for so long as it deems proper, any insurance document or form specified in such order, to which in its opinion this Article may not practicably be applied, or the filing and approval of which are, in its opinion, not desirable or necessary for the protection of the public.

"(f) The State Board of Insurance [~~Commissioners~~] shall forthwith disapprove any such form, or withdraw any previous approval thereto if, and only if,

"(1) It is in any respect in violation of or does not comply with this Code.

"(2) It contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive or contrary to law or to the public policy of this state.

"(3) It has any title, heading or other indication of its provisions which is misleading.

"(g)(1) The Board may, after notice and hearing, withdraw any previous approval of an individual accident and sickness insurance policy form if, after consideration of all relevant facts, the Board finds that the benefits provided under such policy form are unreasonable in relation to the premium charged. The Board shall from time to time as conditions warrant, and after notice and hearing, promulgate such reasonable rules and regulations and amendments thereto as are necessary to establish the standard or standards by which any previous approval of a policy form may be withdrawn. Any such rule or regulation shall be promulgated in accordance with Article 3.70-10 of the Texas Insurance Code. Nothing in this section shall be construed as granting the State Board of Insurance any power or authority to determine, fix, prescribe, or promulgate the rates to be charged for any individual accident and sickness insurance policy or policies.

"(2) The Board shall require the filing of all rates to be charged for individual accident and sickness policies and may adopt necessary forms to be filed by insurers in conjunction with the annual statement required under Articles 3.07 and 3.20 for reporting the experience on all individual accident and sickness insurance policy forms issued by the insurer so as to determine compliance with Subsection (1).

"(h) ~~(g)~~ Appeals from any order of the State Board of Insurance [~~Commissioners~~] issued under this Article may be taken to the District Court of Travis County, Texas, in accordance with Article 21.44 of Subchapter F of this Insurance Code, or any amendments thereof."

Sec. 5. Section 9, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-9, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 9. VIOLATION. Any person, partnership, or corporation wilfully violating any provision of this Act or order of the Board made in accordance with this Act, shall forfeit to the people of the state a sum not to exceed Five Thousand Dollars (\$5,000.00) ~~(Five Hundred Dollars (\$500.00))~~ for each such violation, which may be recovered by a civil action. The Board may also suspend or revoke the license of an insurer or agent for any such wilful violation."

Sec. 6. This Act shall apply to all policies of accident and sickness insurance issued, or issued for delivery, in the State of Texas after June 1, 1976. This Act shall not apply to policies issued, or issued for delivery, in the State of Texas prior to such date.

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### AMENDMENT NO. 2

Amend Committee Amendment 1 to **S.B. 696**, House Second Printing, on page 4, line 17, before the word "or" insert the words "stipulated premium insurance companies,".

The House amendments were read.

Senator Santiesteban moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Harris.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2179

Senator Sherman submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

The Honorable William P. Hobby  
President of the Senate

The Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee appointed to adjust the differences between the House and Senate on **H.B. 2179** have met and adjusted our differences and beg leave to recommend that it be passed in the form attached hereto.

Respectfully submitted,

BYNUM  
SIMPSON  
CATES  
DAVIS  
SPURLOCK  
On the part of the House

SHERMAN  
BRAECKLEIN  
SNELSON  
FARABEE  
HANCE  
On the part of the Senate

The Conference Committee Report was read and was adopted.

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 1010**

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1010** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MAUZY  
CLOWER  
SCHWARTZ  
GAMMAGE  
KOTHMANN  
On the part of the Senate

BRYANT  
DONALDSON  
COLEMAN  
MALONEY  
GRANT  
On the part of the House

## A BILL TO BE ENTITLED

## AN ACT

relating to workmen's compensation law; amending Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended; to further provide that pre-hearing officers shall prepare a written report to the Board on all cases not settled at pre-hearing conference; requiring all interested parties except unrepresented claimants to file formal statements of their respective positions which shall either admit, deny, or qualify each point of the pre-hearing officer's recommendations; providing the effect of matters occurring or facts developed in a pre-hearing conference in other proceedings; and declaring an emergency.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Section 10. (a) Said Board or any member thereof may hold hearings or take testimony or make investigations at any point within this state, reporting the result thereof, if the same is made by one member, to the Board. The Board shall also employ and use the assistance of a sufficient number of pre-hearing officers for the purpose of adjusting and settling claims for compensation; provided, however, that pre-hearing officers shall not be empowered to take testimony.

Notwithstanding any provision of this Act, no claimant shall be required to appear before the Board or Board Member within a distance greater than one hundred (100) miles from the courthouse of the county of the claimant's residence or within a greater distance than one hundred (100) miles of the courthouse of the county where the injury occurred.

(b) The Board shall examine and review all controverted claims and shall schedule and hold pre-hearing conferences on such claims as the Board may designate. It shall have the power to direct the parties to appear before the Board, any member thereof or a pre-hearing officer for pre-hearing conferences to attempt to adjust and settle the claim amicably and to take such other action other than taking of testimony that may aid in the disposition of the claim. Provided, however, that no matter occurring during, or fact developed in, a pre-hearing conference shall be deemed as admissions or evidence or impeachment against the association, employee or the subscriber in any other proceedings except before the Board ~~[or elsewhere in a contested case where the facts involved therein or in any one of them is sought to be contradicted by the association, employee or the subscriber].~~

Provided further that pre-hearing officers shall prepare a report to the Board Members on cases not settled at pre-hearing conference, stating the pre-hearing officer's recommendations for the award, and the basis therefor, with copies of said recommendations furnished to all interested parties and the association shall furnish a copy of the recommendation to the subscriber.

The Board shall provide a reasonable time to all interested parties in each case for filing a formal statement of respective positions, both factual and legal, as well as reply to pre-hearing officer's recommendations, all of which evidence shall be duly considered by the Board Members in making said final award. Unrepresented claimants are exempted from the provision requiring formal statement of respective positions.

The Association and counsel for claimant shall be required to admit, deny, or qualify each point in the pre-hearing officer's recommendations.

The Board shall promulgate procedural rules and regulations not inconsistent with this law to govern such pre-hearing conferences and provided further, such rules and regulations shall not affect nor change any substantive portion of this law.

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be

suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was adopted.

### RECORD OF VOTE

Senator McKinnon asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 616

Senator Jones submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 616** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JONES  
SHERMAN  
MENGDEN  
HANCE  
FARABEE  
On the part of the Senate

NABERS  
LANEY  
HUBENAK  
MALONEY  
SHORT  
On the part of the House

### A BILL TO BE ENTITLED

### AN ACT

relating to regulation of the labeling, distribution, transportation, storage, use, and disposal of pesticides as defined in the Act; requiring registration of pesticides; providing for licensing of pesticides dealers; providing for licensing and certification of persons who apply pesticides; providing for the authority, powers, and duties of the commissioner of agriculture and the State Department of Agriculture, the Texas Animal Health Commission, the Texas Water Quality Board, and the State Department of Health in carrying out the provisions of this Act; providing for a

Pesticide Advisory Committee; requiring the keeping of records and authorizing inspections; providing for handling of damage claims; making certain exemptions; prescribing the extent of application of this Act to persons regulated by the Texas Structural Pest Control Act; providing for hearings; providing for judicial review; providing enforcement procedures; defining certain offenses and providing penalties; repealing the Insecticide, Fungicide, and Rodenticide Act of Texas, as amended (Article 135b-5, Vernon's Texas Civil Statutes); providing effective dates; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. SHORT TITLE. This Act may be cited as the Texas Pesticide Control Act.

Sec. 2. DEFINITIONS. In this Act:

(1) "Active ingredient" means:

(A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which prevents, destroys, repels, or mitigates any pest;

(B) in the case of a plant regulator, an ingredient which, through physiological action, accelerates or retards the rate of growth or rate of maturation or otherwise alters the behavior of ornamental or crop plants or the products of them;

(C) in the case of a defoliant, an ingredient which causes leaves or foliage to drop from a plant; and

(D) in the case of a desiccant, an ingredient which artificially accelerates the drying of plant tissue.

(2) "Adulterated" applies to any pesticide:

(A) if its strength or purity falls below the professed standard or quality expressed on its labeling or under which it is sold;

(B) if any substance has been substituted wholly or in part for the pesticide;

(C) if any valuable constituent of the pesticide has been wholly or in part abstracted; or

(D) if any contaminant is present in an amount which is determined by the commissioner to be a hazard.

(3) "Animal" means any vertebrate or invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(4) "Antidote" means a practical treatment used in preventing or lessening ill effects from poisoning and includes first-aid treatment.

(5) "Certified applicator" means an individual who is determined by an official regulating authority, as provided in this Act, to be competent to use and supervise the use of any restricted-use or state-limited-use pesticide covered by his valid current certified applicator's license.

(6) "Commercial applicator" means a person who owns or manages a pesticide application business engaged in the application of restricted-use or state-limited-use pesticides to the land of another.

(7) "Commissioner" means the Commissioner of Agriculture of the State of Texas or his authorized agent.

(8) "Competent" means properly qualified to perform functions associated with pesticide application, the degree of competency required being directly related to the nature of the activity and the associated responsibility.

(9) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(10) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.

(11) "Device" means any instrument or contrivance, other than a firearm, which is used to trap, destroy, repel, or mitigate any pest or any other form of plant or animal life (other than man and bacteria, viruses, or other microorganisms on or in living man or other living animals), but not including equipment used for the application of pesticides when sold separately from the pesticides.



(12) "Direct supervision" means that, in the application of a restricted-use or state-limited-use pesticide, the application is made by an individual acting under the instructions and control of a certified applicator responsible for the actions of that individual and available if and when needed, although the certified applicator may not be physically present at the time and place of the pesticide application.

(13) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply.

(14) "Due notice" means notice of the time and place at which a hearing is to occur, notice of the subject matter and a general statement of the proposed action, and notice of the class or group of persons to be directly affected, caused to be published by the commissioner in three newspapers of general circulation throughout the state not less than 10 days before the hearing.

(15) "Environment" includes water, air, land, all plants, and man and other animals living in or on water, air, or land, and the interrelationships that exist among them.

(16) "Equipment" means any type of ground, water, or aerial equipment or contrivance employing motorized, mechanical, or pressurized power and used to apply any pesticide to land or to anything that may be inhabiting or growing or stored on or in the land, but does not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance for which the person applying the pesticide is the source of power or energy used in making the pesticide application.

(17) "Fungus" means any non-chlorophyll-bearing thallophyte (any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), such as rust, smut, mildew, mold, yeast, or bacteria, except a non-chlorophyll-bearing thallophyte on or in living man or other living animals and except one on or in processed foods, beverages, or pharmaceuticals.

(18) "Inert ingredient" means an ingredient that is not an active ingredient.

(19) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in a pesticide.

(20) "Insect" means any of the numerous small invertebrate animals generally having a segmented body and for the most part belonging to the class Insecta, comprising six-legged, usually winged forms such as beetles, bugs, bees, and flies, and includes allied classes of arthropods, the members of which are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.

(21) "Label" means the written, printed, or graphic matter on, or attached to, a pesticide or device or any of its containers or wrappers.

(22) "Labeling" means a label and any other written, printed, or graphic matter prepared by a registrant:

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on a label or in literature accompanying or referring to a pesticide or device, except accurate, nonmisleading references made to current official publications of federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(23) "Land" means any land or water areas, including airspace, and any plant, animal, structure, building, contrivance, or machinery, whether fixed or mobile, appurtenant to or situated on a land or water area or airspace, including any used for transportation.

(24) "License use category" means a classification of pesticide use based on the subject, method, or place of pesticide application.

(25) "Nematode" means an invertebrate animal of the phylum Nematelminthes and class Nematoda (an unsegmented round worm with an elongated, fusiform, or sac-like body covered with cuticle), inhabiting soil, water, plants, or plant parts.

(26) "Noncommercial application" means a person or government agency or department which wants to use restricted-use or state-limited-use pesticides or the

authority to demonstrate restricted-use or state-limited-use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license.

(27) "Person" means an individual, firm, partnership, corporation, governmental entity, or association of individuals.

(28) "Pest" means any insect, snail, slug, rodent, bird, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms in living man or other living animals), which the commissioner declares to be a pest.

(29) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(30) "Pesticide dealer" means a person who distributes restricted-use pesticides or state-limited-use pesticides which by regulation are restricted to distribution only by licensed pesticide dealers, except manufacturers and formulators of pesticides who do not sell directly to the user.

(31) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or rate of maturation, or otherwise to alter the behavior of ornamental or crop plants or the products of them, but does not include any substance to the extent that it is intended as a plant nutrient, trace element, nutritional chemical, plant inoculant, or soil amendment.

(32) "Private applicator" means a person who uses or supervises the use of any restricted-use or state-limited-use pesticide for the purpose of producing any agricultural commodity:

(A) on property owned or rented by him or his employer or under his general control; or

(B) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

(33) "Registered applicator" means a competent person working under the direct supervision of a certified applicator.

(34) "Regulatory agency" means a state agency with responsibility for certifying applicators of restricted-use or state-limited-use pesticides, as provided in Section 16 of this Act.

(35) "Restricted-use pesticide" means any pesticide classified as a restricted-use pesticide by the administrator of the federal Environmental Protection Agency.

(36) "State-limited-use pesticide" means any pesticide which, when used as directed or in accordance with widespread and commonly recognized practice, the commissioner determines, after a hearing, requires additional restrictions to prevent unreasonable adverse effects on the environment, including effects on man, land, crops, and animals other than pests.

(37) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of use of a pesticide.

(38) "Weed" means any plant that grows where not wanted.

Sec. 3. MISBRANDED. The term "misbranded" applies:

(1) to any pesticide or device subject to this Act:

(A) if its labeling bears any statement, design, or graphic representation relating to the pesticide, device, or the ingredients of either which is false or misleading in any particular;

(B) if it is an imitation of or is distributed under the name of another pesticide or device; or

(C) if any word, statement, or other information required by this Act or regulations promulgated as provided in this Act to appear on a label or labeling, is not prominently placed on a label or labeling with such conspicuousness, as compared with

other material on the label or labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(2) to any pesticide:

(A) if its labeling bears any reference to registration under the provisions of this Act unless the reference is required by regulations promulgated as provided in this Act;

(B) if the labeling does not contain a statement of the use classifications for which the product is registered;

(C) if the label does not bear:

(i) the name, brand, or trademark under which the pesticide is distributed;

(ii) an ingredient statement on that part of the immediate container which is presented or displayed under customary conditions of purchase, and on any outer container or wrapper of a retail package, if the ingredient statement on the immediate container cannot be clearly read without removing the outer wrapping;

(iii) directions for use which are necessary for effecting the purpose for which the product is intended, and if complied with, are adequate for the protection of health and the environment;

(iv) if the pesticide contains arsenic in any form, a statement of the percentages of total water-soluble arsenic, calculated as elementary arsenic;

(v) the name and address of the manufacturer, registrant, or person for whom the pesticide was manufactured; or

(vi) numbers or other symbols to identify the lot or batch of the manufacturer of the contents of the package;

(D) if the label does not clearly display appropriate warnings, symbols, and cautionary statements commensurate with the toxicity or use classification of the pesticide; or

(E) if the pesticide container does not bear a label or if the label does not contain all information required by this Act or regulations promulgated as provided in this Act.

Sec. 4. PESTICIDE ADVISORY COMMITTEE. (a) The Pesticide Advisory Committee is a committee consisting of the deans of the departments of agriculture of Texas A&M University and Texas Tech University, the executive director of the Parks and Wildlife Department, the commissioner of the State Department of Health, and the commissioner of agriculture, or their designated representatives. Members of the committee serve as ex officio members and receive no compensation as committee members but are entitled to reimbursement from the funds of their respective departments or agencies for actual expenses incurred in the performance of their duties.

(b) The committee meets at least once a year and at such other times as determined by the commissioner, for the purpose of advising the commissioner on the best use of pesticides for the protection of the public health and welfare, animal life, and property. The committee shall receive requested assistance from state universities and state agencies, including assistance from consultants retained by state universities or state agencies, to aid the committee in its recommendations to the commissioner regarding any pesticide program or any other related matter submitted by the commissioner for committee recommendations.

Sec. 5. REGISTRATION OF PESTICIDES. (a) Every pesticide which is distributed within this state or is delivered for transportation or transported in intrastate commerce or between points within this state through any point outside the state, must be registered with the commissioner by the manufacturer, or by any person whose name appears on the label of the pesticide, if not the manufacturer, before the pesticide may be distributed, delivered for transportation, or transported as provided in this subsection. However, registration is not required for the transportation of a pesticide from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the second plant or warehouse as a constituent part of a

pesticide registered under the provisions of this Act.

(b) A person who applies for registration of a pesticide shall file with the commissioner a statement including:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the pesticide label, if not the applicant's;

(2) the name of the pesticide;

(3) a complete copy of all labeling to accompany the pesticide and a statement of all claims to be made for it, including the directions for use;

(4) the use classification, whether for restricted or general use, as provided in the federal Insecticide, Fungicide, and Rodenticide Act, as amended, or in regulations promulgated as provided in the Act;

(5) the use classification proposed by the applicant, if the pesticide is not required by federal law to be registered under a use classification; and

(6) other information required by the commissioner for the determination of eligibility for registration.

(c) The commissioner may require the submission of the complete formula for a pesticide, including active and inert ingredients, as a prerequisite to registration. The commissioner may require a full description of the tests made and the results of the tests on which claims are based before approving registration of a pesticide not registered under federal law or a pesticide for which federal or state restrictions on use are being considered.

(d) A person located outside this state shall, as a condition to registration of a pesticide, file with the commissioner an instrument in writing designating a resident agent for service of process in actions taken in the administration or enforcement of this Act. In lieu of designating a resident agent, the person may designate in writing the secretary of state as the recipient of service of process for the person in this state.

(e) Registration expires annually on December 31. A person who applies for renewal of registration must include in his application only such information as is different from the information furnished at the time of the most recent registration or renewal of registration.

(f) As a condition to registration, an applicant shall pay to the commissioner an annual registration fee of \$30 for each pesticide to be registered as provided in this Act.

(g) Any pesticide registration in effect on December 31<sup>st</sup> for which a renewal application has been filed and a renewal registration fee paid continues in effect until the commissioner notifies the applicant that the registration has been renewed or denied renewal.

(h) A person who fails to apply for renewal of pesticide registration before March 1 of any year shall, as a condition to the renewal of registration, pay a late registration fee of \$5 for each brand to be renewed, to be added to the amount of the renewal registration fee.

(i) The commissioner may not approve an application for registration of a pesticide unless he finds that the composition of the pesticide warrants the proposed claims made for it and that the pesticide, its labeling, and other materials required to be submitted as provided in this Act comply with the requirements of this Act.

(j) The commissioner may register pesticides for additional uses and methods of application not covered by federal regulation but not inconsistent with federal law, for the purpose of meeting special local needs. Before approval of any registration for special local needs, the commissioner shall determine that the applicant meets other requirements of this section.

**Sec. 6. DENIAL OR CANCELLATION OF REGISTRATION.** (a) If the commissioner has reason to believe that any use of a registered pesticide is in violation of the provisions of this Act or is dangerous or harmful, he may issue to the registrant of the pesticide written notice of a hearing on denial or cancellation of registration. The notice must contain a statement of the time and place of the hearing, which may

not be less than 10 days after issuance of notice. After opportunity at the hearing for presentation of evidence by interested parties, the commissioner may deny or cancel the registration of the pesticide if he finds that:

- (1) use of the pesticide has demonstrated uncontrollable adverse environmental effects;
- (2) use of the pesticide is a detriment to the environment which outweighs benefits received by its use;
- (3) even when properly used, the pesticide is detrimental to vegetation, except weeds, or to domestic animals or the public health and safety;
- (4) any false or misleading statement about the pesticide has been made or implied by the registrant or his agent, in writing, verbally, or through any form of advertising literature; or
- (5) the registrant or the pesticide has not complied with a requirement of this Act or rule promulgated as provided in this Act.

Sec. 7. EXPERIMENTAL USE PERMIT. (a) Any person may apply to the commissioner for an experimental use permit for a pesticide. The commissioner may issue an experimental use permit if the commissioner determines that the applicant needs the permit in order to accumulate data necessary to register a pesticide under this Act. An application for an experimental use permit may be filed before or after an application for registration is filed.

(b) Use of a pesticide under an experimental use permit is under the supervision of the commissioner and is subject to such terms and conditions and be for such period of time as the commissioner may prescribe in the permit.

(c) The commissioner may revoke any experimental use permit at any time if he finds that its terms or conditions are being violated or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

Sec. 8. RULES AND REGULATIONS. (a) The commissioner may, after due notice and a public hearing, make appropriate regulations for carrying out the provisions of this Act, including but not limited to regulations providing for:

- (1) the collection, examination, and reporting of records, devices, and samples of pesticides;
- (2) the safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers; and
- (3) labeling requirements for all pesticides and devices required to be registered under the provisions of this Act.

(b) After due notice and a public hearing, the commissioner may adopt from time to time lists of state-limited-use pesticides for the entire state or for designated areas within the state. If the commissioner determines that a pesticide requires restrictions or additional restrictions on distribution or use to prevent unreasonable adverse effects on the environment, he may include the pesticide on a list of state-limited-use pesticides. The commissioner may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or used only with permission of the commissioner, only under his direct supervision in certain areas under certain conditions, and only in specified quantities and concentrations. The commissioner may require persons authorized to distribute or use state-limited-use pesticides to maintain records of their distribution and use of all state-limited-use pesticides and may require that the records be kept separately from other business records.

Sec. 9. PESTICIDE DEALER LICENSE. (a) No person may distribute in this state restricted-use or state-limited-use pesticides without having a valid current pesticide dealer license issued by the commissioner for each location in the state which is used for distribution. Any person licensed as a dealer under Chapter 349, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 135b-4, Vernon's Texas Civil Statutes) shall not be required to pay an additional fee for the license prescribed in this section.

(b) Application for a pesticide dealer license is on forms prescribed by the commissioner, accompanied by a nonrefundable annual registration fee of not more than \$100, as determined by the commissioner. A pesticide dealer license expires on December 31 of each year.

(c) A person without a place of business in the state may obtain one pesticide dealer license for all of his out-of-state locations. As a condition to the issuance of a license, he shall file a statement as provided in Subsection (d), Section 5, of this Act.

(d) Each pesticide dealer license must be prominently displayed in the dealer's place of business. Failure to so display a license is a ground for revocation of the license.

(e) If an application for a renewal of a pesticide dealer license is not filed with the commissioner by March 1 of any year, a late license fee of \$5 is due in addition to the annual license fee and must be paid before issuance of the renewal license.

(f) Licensed pesticide dealers shall maintain for a period of two years records of each restricted-use and state-limited-use pesticide sold. Information included in the records shall be as prescribed by the commissioner. The commissioner may require submission of records to him. Failure to submit requested records is a ground for revocation of a license.

(g) This section does not apply to a licensed pesticide applicator who distributes restricted-use or state-limited-use pesticides only as an integral part of his pesticide application business and who dispenses the pesticides only through equipment used in his pesticide application business. This section does not apply to any federal, state, county, or municipal agency which provides pesticides only for its own programs.

#### Sec. 10. DENIAL OR REVOCATION OF PESTICIDE DEALER LICENSE.

(a) If the commissioner has reason to believe that an applicant has failed to comply with requirements of Section 9 of this Act or regulations promulgated as provided in Section 9, or if the commissioner has reason to believe that a licensee has failed to comply with requirements of Section 9 or regulations promulgated as provided in Section 9, he may issue written notice to the applicant or licensee of the time and place of a hearing to be held by the commissioner on denial or revocation of license. The hearing may not be less than 10 days after issuance of notice.

(b) After opportunity at the hearing for presentation of evidence by the applicant or licensee, the commissioner may refuse to issue a pesticide dealer license or revoke a pesticide dealer license, if he finds that the applicant or licensee has failed to comply with applicable requirements of Section 9 of this Act or regulations promulgated as provided in Section 9.

Sec. 11. ENFORCEMENT. (a) The commissioner or his authorized agents may enter at reasonable hours any building or place owned, controlled, or operated by a registrant or dealer, where from probable cause it appears that the building or place contains pesticides, for the purpose of inspection, examination of records, and sampling. The commissioner or his authorized agents may take a sample for official analysis from any package or lot of pesticides found within the state.

(b) The commissioner may issue and enforce a written or printed stop-sale order to the owner or custodian of any pesticide which he has reason to believe is in violation of any of the provisions of this Act, prohibiting further sale of the pesticide until the commissioner determines that the pesticide is no longer in violation of the Act.

(c) The owner or custodian of a pesticide to which a stop-sale order applies may appeal from the order to a court of competent jurisdiction in the county where the pesticide is found. Appeal is by trial de novo. This section does not limit the right of the commissioner to proceed as authorized by other sections of this Act.

(d) The commissioner may institute an action in his own name to enjoin any violation of a provision of this Act. Venue is in the county where the alleged violation occurred or is occurring.

Sec. 12. OTHER POWERS AND DUTIES OF THE COMMISSIONER. (a) The commissioner may contract with state colleges and universities, state agencies, or

commercial laboratories for examination of pesticides. Contracts with commercial laboratories may be let only on the basis of competitive bidding.

(b) The commissioner shall make or provide for sample tests of pesticides on request, and he may charge and collect fees for the tests necessary to cover expenses incurred in making or providing for the tests.

**Sec. 13. PROHIBITED ACTS.** (a) No person may distribute within the state, or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state, any of the following:

(1) any pesticide which has not been registered as provided in this Act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration;

(3) any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this Act and the regulations adopted under this Act; provided that an applicator may after acquiring such an unbroken container, open and transport the open container to and from application and storage sites as necessary;

(4) any pesticide which has not been colored or discolored as required by the provisions of this Act;

(5) any pesticide which is adulterated or misbranded or any device which is misbranded; or

(6) any pesticide in a container which is unsafe due to damage.

(b) No person may:

(1) detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for in this Act or regulations adopted under this Act, or to add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this Act or the regulations adopted thereunder;

(2) use or cause to be used any pesticide contrary to its labeling or to regulations of the commissioner limiting use of the pesticide;

(3) handle, transport, store, display, or distribute a pesticide in a manner that violates the provisions of this Act or rules promulgated by the commissioner as provided in this Act; or

(4) dispose of, discard, or store any pesticide or pesticide container in a manner that is calculated to cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

(c) No person, except the person to whom a pesticide is registered, may use for his advantage or reveal, other than to properly designated state or federal officials or their employees, or to physicians or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relating to pesticide formulae, trade secrets, or commercial or financial information acquired by authority of this Act and marked as privileged or confidential by the registrant.

**Sec. 14. EXEMPTIONS.** (a) The penalties provided for violations of Section 13 of this Act do not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide or device within this state if the carrier on request permits the commissioner to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide statutes or regulations or while engaged in pesticide research;

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides, if the manufacturer or shipper holds a valid experimental use permit as provided in this Act; and

(4) a pesticide or device manufactured or formulated solely for export to a foreign country and prepared or packed according to the specifications or directions of the purchaser. If not so exported, the provisions of this Act apply.

(b) Chemical compounds being used only to develop plot data as to the possible pesticidal action of the chemicals are exempt from registration requirements of this Act.

Sec. 15. REGULATION OF PESTICIDE USE AND APPLICATION. (a) The Texas Department of Agriculture is the lead agency and is responsible for coordinating activities of state agencies in the regulation of pesticide use and application and is responsible for submitting a state plan for the certification of pesticide applicators to the administrator of the federal Environmental Protection Agency. This agency shall have the responsibility for coordinating, planning, and approving of training programs and shall utilize the resources of the state, both private and public, including but not limited to state universities, colleges, junior colleges, and community colleges as well as the Texas A&M Extension Service and Experiment Stations. The agency shall make all plans in this area on the basis of convenience to applicants, thoroughness of preparation and testing, and maximum economy in expenditures for this purpose. The agency may make full use of authorizations contained in Section 31 of this Act in carrying out these provisions.

(b) The commissioner shall certify pesticide applicators involved in agricultural pest control (except animal pest control), forest pest control, ornamental and turf pest control (except as provided in the Texas Structural Pest Control Act, as amended (Article 135b, Vernon's Texas Civil Statutes)), seed treatments, right-of-way pest control, regulatory pest control, and demonstration pest control.

(c) The Texas Animal Health Commission shall certify, as provided in this Act, pesticide applicators involved in animal pest control.

(d) The Texas Water Quality Board shall certify, as provided in this Act, pesticide applicators involved in aquatic pest control.

(e) The State Department of Health shall certify, as provided in this Act, pesticide applicators involved in health-related pest control.

(f) Definitions of the license use categories described in Subsections (b), (c), (d), and (e) of this section are as provided by federal statutes or regulations.

(g) A person who wants to be certified as a pesticide applicator under license use categories regulated by more than one agency may do so by paying a single license fee to the agency regulating his primary business and by meeting certification requirements for each category for which he desires certification. He must pay testing fees required by each agency.

(h) The licensing of certified commercial and noncommercial applicators is contingent on the availability of federal funds to pay costs of administering and enforcing the program. If federal funds and other funds made available for this program are not sufficient to pay all costs of administering and enforcing the program, the commissioner shall certify the fact and discontinue the licensing of certified commercial and noncommercial applicators. The commissioner shall cause notice of discontinuance of the program to be published in the Texas Register, and the effective date of discontinuance shall be determined by the commissioner but may not be before the date of publication of notice in the register. If sufficient federal funds become available after discontinuance, the commissioner shall certify the availability of sufficient funds to pay all costs of administration and enforcement of the program and shall resume licensing of certified commercial and noncommercial applicators. The commissioner shall cause notice of resumption of the program to be published in the Texas Register, and the effective date of resumption shall be determined by the commissioner but may not be before the date of publication of notice in the register. During any period of discontinuance, no person is required to have a license as provided in this Act to use pesticides but a person may be prosecuted for acts committed or omitted when the program was in effect.



Sec. 16. REGULATIONS FOR PESTICIDE APPLICATION. The head of each state agency with responsibility for certification of pesticide applicators, as provided in Section 15 of this Act, may, after due notice and a public hearing, promulgate regulations to carry out the provisions of this Act for which he is responsible. The regulations may prescribe methods to be used in the application of restricted-use and state-limited-use pesticides. Regulations may relate to the time, place, manner, methods, and amounts and concentrations of pesticide application and to the materials used in pesticide application, and may restrict or prohibit use of restricted-use and state-limited-use pesticides in designated areas during specified periods of time. Regulations shall be promulgated only after consideration of precautions or restrictions necessary to prevent unreasonable adverse effects on the environment.

Sec. 17. PESTICIDE USE WITHOUT LICENSE OR CERTIFICATION. No person, except an individual acting under the direct supervision of a certified applicator, or except a private applicator, may use or supervise the use of any restricted-use or state-limited-use pesticide, unless he is licensed as a certified commercial or noncommercial applicator and is authorized by his license to use restricted-use and state-limited-use pesticides in the license use categories covering his proposed pesticide use. Nothing in this Act shall be construed to prohibit any property owner from using in his house or on his lawn or in his garden any pesticide labeled for such use except one that may be registered and classified for use only by certified applicators.

Sec. 18. CLASSIFICATION OF COMMERCIAL AND NONCOMMERCIAL LICENSES. The head of each regulatory agency may classify commercial and noncommercial licenses under subcategories of license use categories, according to the subject, method, or place of pesticide application. An agency head shall establish separate testing requirements for licensing in each license use category for which his agency is responsible, and may establish separate testing requirements for licensing in subcategories within a license use category. Each regulatory agency may charge a nonrefundable testing fee of not more than \$10 for testing in each license use category.

Sec. 19. COMMERCIAL APPLICATOR LICENSE. (a) No person, except an individual working under the direct supervision of a certified applicator, may apply restricted-use or state-limited-use pesticides to the land of another for hire or compensation at any time without having a valid current commercial applicator license issued by a regulatory agency for the license use categories and subcategories, if any, in which the pesticide application is to be made.

(b) Application for an original or renewal license shall be on forms prescribed by the regulatory agency and shall be accompanied by an annual license fee of not more than \$100, as determined by the head of the regulatory agency. Each license application shall include such information as is prescribed by regulation of the head of the regulatory agency.

(c) Before issuance of an original commercial applicator license, an applicant must pass an examination demonstrating his competence and knowledge of the use and effects of restricted-use and state-limited-use pesticides in the license use categories or subcategories for which he has applied to be licensed. An individual to whom a commercial applicator license is issued is a certified applicator authorized to use and supervise the use of restricted-use and state-limited-use pesticides in the license use categories and any subcategories in which he is licensed. If a license is issued in the name of a business, the business must have a certified applicator employed at all times. Failure to have a certified applicator employed is a ground for revocation of a business commercial applicator license.

(d) A regulatory agency may not issue a commercial applicator license until the license applicant files with the agency evidence of financial responsibility, consisting either of a bond executed by the applicant as principal and by a corporate surety

licensed to do business in Texas as surety or a liability insurance policy or certification of a policy, protecting persons who may suffer damages as a result of the operations of the applicant. The bond or liability insurance policy, however, need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant. The surety bond or insurance must be approved by the regulatory agency and conditioned on compliance with the requirements of this Act and any regulations promulgated as provided in this Act.

(e) The amount of the bond or liability insurance required may not be less than \$5,000 nor more than \$100,000 for property damage insurance and may not be less than \$5,000 for bodily injury insurance. The head of the regulatory agency may, by regulation, require different amounts of bond or insurance coverage for different classifications of operations under this Act. The bond or liability insurance must be maintained at not less than the sum set by the agency head at all times during a period licensed. The head of the regulatory agency shall be notified by the party taking action at least 10 days prior to any reduction requested by a licensee or any cancellation of a bond or policy; otherwise, liability of the surety or insurer for all claims is limited to the face amount of the bond or liability insurance policy. The agency head may accept a liability insurance policy or bond in the proper sum which has a deductible clause in an amount of not more than \$1,000 for the total amount of liability insurance or bond required by this section. However, if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, a policy or bond with a deductible clause may not be accepted by an agency head unless the applicant furnishes the agency with a surety bond which satisfies the amount of the deductible clause as to all claims that may arise as a result of his operation. Should the surety furnished become insufficient or otherwise unsatisfactory, a licensee shall, on notice of the insufficiency or other defect, immediately file a new bond or policy of insurance. Failure to file a bond or policy of insurance and failure to maintain the security in the required amounts are grounds for suspension or revocation of a commercial applicator license.

(f) The head of a regulatory agency may not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted of a felony involving moral turpitude in the last five years;

(2) the applicant has had a previous license, authorized by this Act to be issued, revoked within the last two years;

(3) the applicant, or his representative if the applicant is a business, has been unable to satisfactorily fulfill certification requirements; or

(4) the applicant for any other reason cannot be expected to be able to fulfill the provisions of this Act applicable to the license use category for which application has been made.

**Sec. 20. NONCOMMERCIAL APPLICATOR LICENSE.** (a) A person not engaged in the pesticide application business who is not a private applicator, except a person acting under the direct supervision of a certified or private applicator, may not use restricted-use or state-limited-use pesticides without having a valid current noncommercial applicator license issued by a regulatory agency for the license use categories and subcategories, if any, in which the pesticide application is to be made.

(b) Application for an original or renewal license shall be on forms prescribed by the regulatory agency. A nongovernmental applicant shall accompany his application with an annual license fee of not more than \$50, as determined by the head of the regulatory agency. No license fee may be charged a governmental entity applying for a license.

(c) Before issuance of an original noncommercial applicator license, an applicant must pass an examination demonstrating his competence and knowledge of the use and effects of restricted-use and state-limited-use pesticides in the license use categories or subcategories for which he has applied to be licensed. An individual to whom a noncommercial applicator license is issued is a certified applicator authorized

to use and supervise the use of restricted-use and state-limited-use pesticides in the license use categories and any subcategories in which he is licensed. If a license is issued in the name of a governmental entity, the entity must have a certified applicator employed at all times. Failure to have a certified applicator employed is a ground for revocation of a governmental entity noncommercial applicator license.

**Sec. 21. PRIVATE APPLICATOR EXEMPTION.** A private applicator is not required to have a license or to be certified to use restricted-use or state-limited-use pesticides. The commissioner is authorized to establish a program to certify private applicators, on a voluntary basis, who wish to apply restricted use pesticides in compliance with federal law.

**Sec. 22. RECIPROCAL AGREEMENTS.** The head of a regulatory agency may waive part or all of any license examination requirements on a reciprocal basis with any other state or federal agency which has substantially the same examination standards.

**Sec. 23. LICENSE RENEWAL.** Each commercial applicator license and noncommercial applicator license expires on December 31 of the year in which it was issued. A person having a valid current license may renew the license for another year without retesting by paying to the regulatory agency an annual license fee, as provided in this Act, unless the head of the regulatory agency determines that additional knowledge is required in the license use categories or subcategories in which the licensee applies for license renewal, in which case the passing of a new examination is necessary for license renewal. However, if a certified applicator does not file with the regulatory agency by March 1 of any year his application for license renewal, accompanied by payment of the annual license fee, he must pass another examination before he may be recertified.

**Sec. 24. MAINTENANCE OF RECORDS.** Each regulatory agency shall require its licensees except private applicators to maintain records of their use of pesticides. Information to be included in the records is as prescribed by regulation of the regulatory agency. A regulatory agency may require its licensees to keep records of their application of specific restricted-use and state-limited-use pesticides and may require the records to be kept separately from other business records. Records must be kept for a period of two years from the date of pesticide application. A licensee shall, on written request of the regulatory agency, furnish the agency a copy of any records requested pertaining to the application of pesticides.

**Sec. 25. REGISTRATION AND INSPECTION OF EQUIPMENT.** (a) Each regulatory agency shall provide for the registration and inspection of equipment used in the commercial application of restricted-use or state-limited-use pesticides and may require repairs or alterations of equipment before further use. The head of a regulatory agency shall by regulation promulgate standards that must be met before registration of equipment.

(b) Each piece of registered equipment shall be identified by a license plate or decal furnished by a regulatory agency at no cost to the licensee and attached to the equipment in a manner and location as prescribed by the regulatory agency.

**Sec. 26. SUSPENSION AND REVOCATION OF A CERTIFIED APPLICATOR LICENSE.** (a) The head of a regulatory agency which licensed a certified applicator may suspend temporarily for not more than 10 days, after written notice of noncompliance, and, after opportunity for a hearing not less than 10 days after issuance of written notice to the licensee of the time, place, and nature of the hearing, may suspend, modify, or revoke any provision in the license of a certified applicator, if he finds that the licensee has committed any of the following acts, each of which is a violation of this Act:

(1) made a pesticide recommendation or application inconsistent with the labeling or with the restrictions on the use of the pesticide imposed by the federal Environmental Protection Agency or the state;

- (2) operated in a faulty, careless, or negligent manner;
- (3) refused or, after notice, failed to comply with any applicable provision of this Act, the rules and regulations adopted as provided in this Act, or any lawful order of the head of a regulatory agency by which he is licensed;
- (4) refused or neglected to keep and maintain the records required by this Act or to make reports when and as required;
- (5) failed to maintain a bond or policy of insurance as required by this Act;
- (6) made false or fraudulent records, invoices, or reports;
- (7) used fraud or misrepresentation in making an application for, or renewal of, a license; or
- (8) aided or abetted a licensed or an unlicensed person to evade the provisions of this Act, conspired with a licensed or an unlicensed person to evade the provisions of this Act, or allowed his license to be used by another person.

(b) In addition to revocation, modification, or suspension of a license, a licensee who violates Subsection (a) of this section is subject to the other penalty provisions of this Act. An unlicensed person who violates Subsection (a) of this section, to the extent that it is applicable to unlicensed persons, is subject to the penalty provisions of this Act.

Sec. 27. APPEAL. (a) A person whose application for registration of a pesticide has been denied or whose registration for a pesticide has been cancelled may appeal the action of the commissioner by filing an appeal in the district court of Travis County within 30 days of the date of denial or cancellation by the commissioner. A copy of the notice of appeal shall be delivered to the commissioner.

(b) A person whose application for experimental use permit, pesticide dealer license, commercial applicator license, or noncommercial applicator license has been denied, or whose experimental use permit, pesticide dealer license, commercial applicator license, or noncommercial applicator license has been revoked, modified, or suspended for more than 10 days, may appeal the action of the commissioner or head of a regulatory agency by filing an appeal in the district court of the county of his residence or in the district court of Travis County, within 30 days of the date of denial, revocation, modification, or suspension. A copy of the notice of appeal shall be delivered to the person whose action has been appealed.

(c) Appeal is governed by the substantial evidence rule.

Sec. 28. REPORTS OF PESTICIDE DAMAGE CLAIMS. (a) Any person claiming damages from a pesticide application may file with the regulatory agency which licensed the certified applicator whose action allegedly caused damage a written statement claiming that he has been damaged. To be eligible for consideration by the agency, the report must be filed within 30 days of the alleged occurrence, or if a growing crop is alleged to have been damaged, the report must be filed prior to the time that 25 percent of the crop has been harvested or within 30 days, whichever is less. The report must contain, but is not limited to, the name of the person allegedly responsible for the application of the pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred. The regulatory agency shall prepare a form to be furnished to persons to be used in filing damage reports, and the form may contain such other information as is required by the head of the regulatory agency.

(b) The regulatory agency shall, on receipt of a report, notify the licensee and the owner or lessee of the land on which the alleged acts occurred, and any other person who may be charged with responsibility for the damages claimed. The regulatory agency shall furnish copies of the report to these people on request. The regulatory agency shall inspect damages whenever possible and shall report its findings to the person claiming damage and to the person alleged to have caused the damage.

(c) The failure to file a report is no bar to the maintenance of any criminal or civil action. However, if the person failing to file a report is the only person claiming injury from the particular use or application of a pesticide, the regulatory agency, when

in the public interest, may refuse to hold a hearing for the denial, suspension, or revocation of a license issued under this Act to a person alleged to have caused damage.

(d) If damage is alleged to have occurred, the claimant shall permit representatives of the regulatory agency and the licensee to observe within reasonable hours the land or nontarget organism alleged to have been damaged, in order that the damage may be assessed.

**Sec. 29. STORAGE AND DISPOSAL OF PESTICIDES.** (a) The commissioner may promulgate regulations governing the storing and disposal of pesticides and pesticide containers for the purpose of preventing injury from storage or disposal to man, vegetation, crops, or animals, and preventing pollution of any waterway in a way harmful to man or wildlife.

(b) No person may store or dispose of any pesticide in violation of regulations promulgated by the commissioner as provided in this section.

**Sec. 30. INSPECTION BY REGULATORY AGENCY.** (a) The head of a regulatory agency or his authorized representatives may enter any public or private premises at reasonable times:

(1) to inspect any equipment authorized or required to be inspected under this Act, and to inspect the premises on which the equipment is kept or stored;

(2) to inspect or sample land exposed or reported to be exposed to pesticides;

(3) to inspect areas where pesticides are disposed of or stored; or

(4) to observe the use and application of restricted-use or state-limited-use pesticides.

(b) If the head of a regulatory agency or his authorized representatives are denied access to any land where access was sought at a reasonable time for any of the purposes described in Subsection (a) of this section, the head of the regulatory agency may apply to a magistrate for a warrant authorizing access to the land for any of the above described purposes. On a showing of probable cause to believe that a violation of any regulation relating to a purpose of inspection described in Subsection (a) of this section has occurred, the magistrate shall issue the search warrant for the purposes requested.

(c) A regulatory agency may bring suit to enjoin violations or threatened violations of provisions of this Act within its responsibility and may request the appropriate prosecuting attorney to prosecute violations of the penal provisions of this Act.

**Sec. 31. COOPERATIVE AGREEMENTS.** Each regulatory agency may receive grants-in-aid from any federal agency and may enter into cooperative agreements with a federal agency, an agency of this state or a subdivision of this state, or an agency of another state for the purpose of obtaining assistance in the implementation of this Act.

**Sec. 32. PENALTY.** A person who violates any provision of this Act is guilty of a Class C misdemeanor. Each violation is a separate offense.

**Sec. 33. PERSONS REGULATED BY THE TEXAS STRUCTURAL PEST CONTROL ACT.** Sections 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, and 31 of this Act do not apply to persons regulated by the Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes).

**Sec. 34. REPEALER.** The Insecticide, Fungicide, and Rodenticide Act of Texas, as amended (Article 135b-5, Vernon's Texas Civil Statutes), is repealed.

**Sec. 35. EFFECTIVE DATE.** Sections 32 and 34 of this Act take effect November 1, 1976. All other sections of this Act take effect January 1, 1976.

**Sec. 36. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was adopted.

**RECORD OF VOTE**

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 1036**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1036** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HARRIS  
WILLIAMS  
OGG  
MENGDEN  
On the part of the Senate

AGNICH  
KORIOTH  
SHORT  
On the part of the House

**A BILL TO BE ENTITLED**

**AN ACT**

amending Title 63, Revised Civil Statutes of Texas, 1925, as amended; providing that the provisions of Title 63, as amended, shall not apply to construction in any city or town which has adopted a nationally recognized model building code which contains certain requirements as to means of escape as specified in the Act; providing that construction heretofore completed in accordance with a nationally recognized model building code which contained certain requirements as to means of escape as specified in the Act shall be deemed to comply with Title 63, as amended; authorizing any city to enact additional standards not in conflict with this Act; providing for severability; repealing all laws or parts of laws in conflict herewith; and declaring an emergency.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

Section 1. Title 63, Revised Civil Statutes of Texas, 1925, as amended, is hereby amended by adding thereto a new article to be known and designated as Article 3972b, such new article to read as follows:

"Article 3972b. **APPLICABILITY.** The provisions of Title 63, as amended, shall not be applicable and shall have no force or effect on construction in any city or town which has adopted and has in effect a nationally recognized model building code governing such construction if such building code in effect in any city or town requires at least one or more one-hour fire-resistive means of escape having a total width equivalent to or greater than the total exit width required by the present 'Fire Escapes,' Title 63, Articles 3955-3972, Revised Civil Statutes of Texas, 1925, as amended, in all structures of three or more stories."

Sec. 2. Title 63, Revised Civil Statutes of Texas, 1925, as amended, is hereby amended by adding thereto a new article to be known and designated as Article 3972c, such new article to read as follows:

"Article 3972c. **COMPLIANCE.** Any construction heretofore completed in accordance with the provisions and requirements of a nationally recognized model building code shall be deemed for all purposes to have complied with all of the provisions and requirements contained in Title 63, as amended, if such building code in effect in any city or town requires at least one or more one-hour fire-resistive means of escape having a total width equivalent to or greater than the total exit width required by the present 'Fire Escapes,' Title 63, Articles 3955-3972, Revised Civil Statutes of Texas, 1925, as amended, in all structures of three or more stories."

Sec. 3. Notwithstanding Sections 1 and 2, any city may enact additional standards that are not in conflict with the provisions of this Act.

Sec. 4. The provisions of this Act shall be severable, and if any section or part hereof shall be declared unconstitutional, void, or inoperative in any way, said declaration shall not affect the remaining sections or parts of this Act.

Sec. 5. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Sec. 6. The fact that the provisions of Title 63 are no longer applicable to modern construction practices and create legal situations where compliance is no longer necessary or desirable, and the urgent nature of the need for changes in such requirements, together with the crowded condition of calendars in both houses, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house, and the constitutional rule that bills shall not be effective until 90 days after the adjournment of the legislature, be suspended, and such constitutional rules are hereby suspended, and this Act shall be in full force and effect from and after its passage, and it is so enacted.

The Conference Committee Report was read and was adopted by the following vote: Yeas 23, Nays 8.

Yeas: Adams, Andujar, Braecklein, Brooks, Creighton, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Traeger and Williams.

Nays: Aikin, Clower, Doggett, Longoria, Mauzy, Patman, Sherman and Snelson.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the Conference Committee Report on House Bill 2179 adopted by a non-record vote.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 839 ADOPTED

Senator Mengden called from the President's table the Conference Committee Report on S.B. 839. (The Conference Committee Report having been filed with the Senate and read on May 30, 1975.)

On motion of Senator Mengden, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Creighton and Mauzy.

#### HOUSE BILL 1058 ON SECOND READING

On motion of Senator Hance and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1058**, A bill to be entitled An Act relating to the payment in advance of travel expenses incurred by state employees and officers in the exercise of their official duties; amending Subsection a, Section 3, Section 5, as amended, Section 6 by amending Subsections b, c, as amended, and e, and by adding Subsection g, Section 7, and Section 10, Travel Regulations Act of 1959 (Article 6823a, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read second time and was passed to third reading.

#### HOUSE BILL 1058 ON THIRD READING

Senator Hance moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1058** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.



Nays: Creighton.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Schwartz and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendment to **S.B. 1005**.

#### **SENATE BILL 1005 WITH HOUSE AMENDMENT**

Senator Schwartz called **S.B. 1005** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **COMMITTEE AMENDMENT NO. 1**

Amend Senate Bill 1005, Section 1, line 15 by deleting the figure \$95,522.30 and inserting in lieu thereof the figure \$57,313.38;

By deleting the figure \$12,000.00 on line 19 and inserting in lieu thereof the figure \$7,200.00;

By deleting the figure \$16,672.50 in line 23 and inserting in lieu thereof the figure \$10,003.50;

And by deleting the total figure of \$193,832.80 and inserting in lieu thereof the figure \$144,154.88.

The House amendment was read.

Senator Schwartz moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1484 ADOPTED**

Senator Schwartz called from the President's table the Conference Committee Report on **H.B. 1484**. (The Conference Committee Report having been filed with the Senate and read on May 31, 1975.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 137 ADOPTED**

Senator Schwartz called from the President's table the Conference Committee Report on **S.B. 137**. (The Conference Committee Report having been filed with the Senate and read on May 31, 1975.)

On motion of Senator Schwartz, the Conference Committee Report was adopted by the following vote: Yeas: 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 201**

Senator Adams submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 201 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ADAMS  
SHERMAN  
SCHWARTZ  
GAMMAGE  
FARABEE  
On the part of the Senate

FELIX McDONALD, Chairman  
MALONEY  
LARY  
NOWLIN  
EARLE  
On the part of the House

The Conference Committee Report was read and was adopted by the following vote: Yeas 15, Nays 12.

Yeas: Adams, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Harrington, Harris, Lombardino, McKinnon, McKnight, Mengden, Schwartz and Williams.

Nays: Aikin, Jones, Kothmann, Longoria, Mauzy, Meier, Moore, Ogg, Patman, Sherman, Snelson and Traeger.

Absent: Andujar, Clower, Gammage and Santiesteban.

**BILLS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills:

S.B. 17  
S.B. 130  
S.B. 172  
S.B. 270  
S.B. 276  
S.B. 277  
S.B. 319  
S.B. 398  
S.B. 466  
S.B. 491  
S.B. 596  
S.B. 665  
S.B. 706  
S.B. 722  
S.B. 746  
S.B. 748  
S.B. 759  
S.B. 809  
S.B. 880  
S.B. 883  
S.B. 912  
S.B. 940  
S.B. 991  
S.B. 1034  
S.B. 1047  
S.B. 1110  
S.B. 1113  
S.B. 1119

**SENATE BILL 923 WITH HOUSE AMENDMENT**

Senator Moore called **S.B. 923** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**COMMITTEE AMENDMENT NO. 1**

Amend **S.B. 923** by deleting all below the enacting clause and substituting in lieu thereof the following:

Section 1. Chapter 3 of the Insurance Code, as amended, is amended by adding a new Article 3.51-6 to read as follows:

"Article 3.51-6. Group and Blanket Accident and Health Insurance.

"Section 1. Group accident and health insurance is hereby defined to be that form of accident, sickness, or accident and sickness insurance covering groups of persons as provided in A through E below.

"A. Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer. The term 'employees' as used herein shall be deemed to include the officers, managers, and employees of the

employer, the individual proprietor, or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise, and retired employees. A policy issued to insure employees of a public body may provide that the term 'employees' shall include elected or appointed officials. The policy may provide that the term 'employees' shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

"B. Under a policy issued to an association, including but not limited to a labor union or organizations of such unions, membership corporations organized or holding a Certificate of Authority under the Texas Non-Profit Corporation Act, and cooperatives and corporations subject to the supervision and control of the Farm Credit Administration of the United States of America, and which association shall have a constitution and by-laws, and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, to insure members, employees, or employees of members (active and retired for the benefit of persons other than the association or its officers or trustees).

"C. Under a policy issued to the trustees of a fund established by two or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in B above, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or such association, or employees of members of such association for the benefit of persons other than the employers or the unions or such association. The term 'employees' as used herein may include the officers, managers, and employees of the employer, retired employees, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The policy may provide that the term 'employees' shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

"D. Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this State to insure any class or classes of individuals that could be insured under such group life policy;

"E. Under a policy issued to cover any other substantially similar group which, in the discretion of the Commissioner of Insurance, may be subject to the issuance of a group accident and sickness policy or contract.

"F. The spouse and dependents of employees or members referred to in A through E of this Section may be included within the coverage provided in a group policy.

"G. An insurer issuing a group policy under this Article shall furnish to the policyholder for delivery to each employee or member of the insured group a certificate of insurance which shall contain a statement, in summary form, of the essential features of the insurance coverage of such employee or member and to whom benefits are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

"H. No group policy of accident, health, or accident and health insurance shall be delivered or issued for delivery in this State which does not conform to the requirements and definitions set forth in A through E of this Section.

"I. No insurer shall pay to any individual, firm, corporation, or group entity any fees or allowances for services related to group policies except as reimbursement for the cost of such services which would otherwise have been provided by the insurer, provided that this provision shall not limit the right of the insurer to pay dividends or make returns of premium to any group or to any combination of groups or make provision for rate stabilization funds with combinations of groups, nor shall it prohibit payment of commissions or compensation to a duly licensed agent.

"Section 2. Blanket accident and health insurance is hereby defined to be that form of accident, health, or accident and health insurance covering groups of persons as provided in A through I below.

"A. Under a policy issued to any common carrier or to any operator, owner, or lessor of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation; or, under a policy issued to any automobile and/or truck leasing company, which shall be deemed the policyholder, covering a group of persons who may become either renters, lessees or passengers defined by their travel status on such rented or leased vehicles.

"B. Under a policy issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents, or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

"C. Under a policy issued to a college, school, or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal, or governing board of any such education unit, who or which shall be deemed the policyholder, covering students, teachers, or employees.

"D. Under a policy issued to any religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by such policyholder.

"E. Under a policy issued to a sports team, camp, or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials, or supervisors.

"F. Under a policy issued to any governmental or volunteer fire department or fire company, first aid, civil defense, or other such governmental or volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

"G. Under a policy issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

"H. Under a policy issued to an association, including a labor union, which shall have a constitution and by-laws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

"I. Under a policy issued to cover any other risk or class of risks which, in the discretion of the Commissioner of Insurance, may be properly eligible for blanket accident and sickness insurance. The discretion of the Commissioner of Insurance may be exercised on an individual risk basis or class of risks, or both.

"J. An individual application need not be required from a person covered under a blanket accident and sickness policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

"K. Nothing in this Section shall be deemed to affect the legal liability of any policyholder for the death of or injury to any member of a group.

"L. No blanket policy shall be delivered or issued for delivery in this State which does not conform to the requirements and definitions set forth in A through I of this Section.

"M. No insurer shall pay to any individual, firm, or corporation any fees or allowances for services related to blanket policies except as reimbursement for the cost of such services which would otherwise have been provided by the insurer provided that this provision shall not limit the right of the insurer to pay dividends or make return of

premium to any group or any combination of groups or make provision for rate stabilization funds with combinations of groups, nor shall it prohibit the payment of commissions or compensation to a duly licensed agent.

"Section 3. All benefits under any group or blanket accident and sickness policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured be a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian, or other person actually supporting him. The policy may provide that all or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical, or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

"Section 4. The provisions of this Article shall not be applicable to:

"A. credit accident and health insurance policies subject to Article 3.53 of the Texas Insurance Code, as amended;

"B. any group specifically provided for or authorized by law in existence and covered under a policy filed with the State Board of Insurance prior to April 1, 1975.

"C. accident and health coverages that are incidental to any form of group automobile, casualty, property, or workmen's compensation - employers' liability policies promulgated or approved by the State Board of Insurance.

"D. any policy or contract of insurance with a state agency, department, or board providing health services to all eligible persons under Section 6, (Article 695j-1, Vernon's Texas Civil Statutes, 343-353 (42USCA, 1396-1396g) providing health care and services under a State Plan.

"Section 5. The State Board of Insurance is authorized to issue such rules and regulations as may be necessary to carry out the various provisions of this Article. Rules and regulations promulgated pursuant to this Article shall be subject to notice and hearing pursuant to Section 10, Chapter 397, Acts of the 54th Legislature, Regular Session 1955 (Article 3.70-10, Vernon's Texas Insurance Code.)"

Section 2. This Act shall apply to all group accident, health, or accident and health insurance policies and all blanket accident, health, or accident and health insurance policies, delivered or issued for delivery in the State of Texas on and after January 1, 1976.

Section 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The House amendment was read.

Senator Moore moved to concur in House amendment.

The motion prevailed by the following vote: Yeas 19, Nays 11.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Harrington, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Moore, Ogg, Santiesteban, Schwartz and Williams.

Nays: Creighton, Hance, Harris, Jones, McKinnon, Meier, Mengden, Patman, Sherman, Snelson and Traeger.

Absent: Gammage.

#### **SENATE BILL 871 WITH HOUSE AMENDMENT**

Senator Doggett called **S.B. 871** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendment before the Senate. (The amendments having been read, concurred in, and vote by which Senate concurred reconsidered today.)

Question - Shall the Senate again concur in the House amendment to **S.B. 871**?

Senator Doggett moved the Senate again concur in the House amendment.

The motion prevailed by the following vote: Yeas 19, Nays 12.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Kothmann, Longoria, McKinnon, Meier, Patman, Santiesteban, Schwartz and Williams.

Nays: Aikin, Harris, Jones, Lombardino, Mauzy, McKnight, Mengden, Moore, Ogg, Sherman, Snelson and Traeger.

#### **BILLS AND RESOLUTION SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolution:

**H.C.R. 161**

**H.B. 31**

**H.B. 101**

**H.B. 218**

**H.B. 261**

**H.B. 299**

**H.B. 305**

**H.B. 366**

**H.B. 413**

**H.B. 446**

**H.B. 458**

**H.B. 569**

**H.B. 614**

**H.B. 652**

**H.B. 785**

**H.B. 887**

**H.B. 899**

H.B. 960  
H.B. 968  
H.B. 970  
H.B. 989  
H.B. 1065  
H.B. 1073  
H.B. 1079  
H.B. 1089  
H.B. 1194  
H.B. 1217  
H.B. 1246  
H.B. 1308  
H.B. 1334  
H.B. 1396  
H.B. 1405  
H.B. 1486  
H.B. 1518  
H.B. 1549  
H.B. 1570  
H.B. 1590  
H.B. 1595  
H.B. 1597  
H.B. 1778  
H.B. 1793  
H.B. 1841  
H.B. 1854  
H.B. 1893  
H.B. 2016  
H.B. 2061  
H.B. 2127  
H.B. 2182  
H.B. 2212  
H.B. 2215  
H.B. 2219  
H.B. 2229

MESSAGE FROM THE HOUSE



Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the Conference Committee Report on House Bill 201 adopted by a non-record vote.

**S.C.R. 111**, That the Joint Rules of the House and the rules of both houses be, and are hereby suspended to permit either house to take up and consider Senate Bill 163, 64th Legislature, Regular Session, 1975, at any time.

Respectfully submitted,  
**DOROTHY HALLMAN**  
Chief Clerk, House of Representatives

#### **AT EASE**

On motion of Senator Aikin and by unanimous consent, the Senate at 3:22 o'clock p.m. agreed to Stand at Ease Subject to the Call of the Chair.

#### **IN LEGISLATIVE SESSION**

The President called the Senate to order As In Legislative Session at 4:58 o'clock p.m.

#### **MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 167**, Suspending the joint rules of the House and Senate in order to permit either House to take up and consider **S.B. 317** at any time.

All necessary rules suspended and the Conference Committee Report on Senate Bill 137 adopted by a vote of 118 ayes, 15 noes, 2 present-not voting. (Report included) (Passed subject to Sec. 49A, Art. 3, Constitution of Texas)

Respectfully submitted,  
**DOROTHY HALLMAN**  
Chief Clerk, House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE CONCURRENT RESOLUTION 109**

Senator Aikin submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Concurrent Resolution 109, have met and had the same under consideration, and beg to report back with the recommendation that it do pass in the form attached.

AIKIN  
BROOKS  
CREIGHTON  
MOORE  
SCHWARTZ  
On the part of the Senate

PRESNAL  
BLAKE  
LELAND  
NUGENT  
PARKER  
On the part of the House

**SENATE CONCURRENT RESOLUTION**

**BE IT RESOLVED** by the Senate of the State of Texas, the House of Representatives concurring, that Senate Rule 96 (a) and (b), House Rule 25, Sections 8 and 9 and Joint Rule 29 be suspended in part, as provided by Senate Rule 96 (f), House Rule 25, Section 13 and Joint Rule 33, to enable consideration of, and action on, the following specific matters which may be contained in the Conference Committee Report on Senate Bill 52 (For convenience, references are house version items):

**ARTICLE I**

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the house and senate version in identical amounts:

1. On page 1-4, Courts of Civil Appeals, Sixth District, Texarkana, change the salary rate in 1976 to \$40,500 for the purpose of correcting a typographical error in both versions of the bill.

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

C. To allow amounts to exceed the larger or be less than the smaller of either the senate or the house version of the bill as follows:

1. On page I-6, Courts of Civil Appeals Ninth District, Beaumont, change the amount in Item 8, merit salary increases, to \$583 in 1976 and \$623 in 1977 for the purpose of providing correct amounts based on number of agency personnel.

2. On page I-9, Supreme Court of Texas, change the amount in Item 9, merit salary increases, to \$3,072 in 1976 and \$3,327 in 1977 for the purpose of providing correct amounts based on number of agency personnel.

#### ARTICLE I

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

E. To allow the addition of the following items not included in either the house or senate version of the bill:

1. On page I-13, Judicial Qualifications Commission, add a new item for personal services and other costs related to investigations \$50,000 in 1976 and U.B. in 1977 to provide adequate funds for investigations relating to judiciary.

2. On page I-16, Judiciary Section-Comptroller's Department, add a new item for enactments of the 64th Legislature creating district courts and offices of District Attorneys or Criminal District Attorneys in an amount of \$685,033 in 1976 and \$861,200 in 1977 to provide funds for these newly created judicial positions.

3. On page I-16, Judiciary Section-Comptroller's Department, add a new item for payment of deficiency certificates in an amount of \$48,227 in 1976 to pay for such certificates already issued and outstanding for witness fees.

4. On page I-16, Judiciary Section-Comptroller's Department, add a new item for payment of witness fees currently owing in an amount of \$186,000 in 1976 and U.B. in 1977. It is necessary to add this item to compensate witnesses for expenses incurred.

#### ARTICLE II

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

A. To change, alter, or amend text which is not in disagreement in the following respects:

1. On pages II-1 through II-85, change all references to Department of Health, State Board of Health, Commissioner of Health, and Deputy Commissioner (of Health) to Texas Department of Health Resources, State Board of Health Resources, Director of Health Resources, and Deputy Director of Health Resources, respectively. This is to conform to legislation passed by the 64th Legislature.

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

B. To omit text which is not in disagreement as follows:

1. In the house version, on page II-55, Department of Public Welfare, delete paragraph 38(1)b as follows: "\$295,390 for fiscal year 1976;" because only one contingency, instead of two, is provided for AFDC and Foster Care in 1976.

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

C. To add text on the following matters which are not in disagreement:

1. In the house version, on page II-49, Department of Public Welfare, Paragraph 6, add the following: "and such funds are reappropriated to the Department for the 1976-77 biennium." The reason for the additional text is to allow the money to be appropriated in the manner originally intended which the old language did not accomplish.

**ARTICLE II**

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

D. To add the following text on matters which are not included in either the house or senate versions of the bill:

1. On page II-17, Department of Mental Health and Mental Retardation, change Item 2f to read "Arts, Graphics and Educational Services and Drug Abuse and Alcoholism Office." This provides flexibility in use of funding of the program.

2. On page II-27, Department of Mental Health and Mental Retardation, Construction Program, add the words "It is the intent of the Legislature that" at the beginning of the last paragraph. This provides a clear interpretation of the provision.

3. On page II-28, Department of Mental Health and Mental Retardation, Mental Hospitals and Centers, Austin State Hospital, add a new Item 6. Expansion of and additions to Laundry Facilities in the amount of \$65,000 in 1976 and U.B. in 1977. This provides a means for more economical operation of the facility.

4. On page II-58, Department of Public Welfare, add the following:  
 "In the event federal funds become available and are applied to the pilot program for emotionally disturbed and delinquent youth in the Department of Public Welfare, the Comptroller is directed to reduce the amount of General Revenue by the amount of federal funds applied so that total funds available to the program shall not exceed \$1,411,413 in the 1976 fiscal year and \$1,910,621 in the 1977 fiscal year." This allows General Revenue funds to be used only in the event sufficient federal funds are not available for the project.

5. On page II-58, Department of Public Welfare, add the following:  
 "Pursuant to the provisions of Article 689a-4b, V.A.T.C.S., the appropriations for each fiscal year under Item 14b., for Purchased Health Services - Medicare Related - Contingency are made contingent upon a finding by the Governor that the following fact exists for each applicable fiscal period:

a. That the Department of Public Welfare has stated in writing to the Governor that the monthly average of the combined number of: (a) Aged, and (b) Blind recipients 65 years old or older, will exceed:

a. 276,505 for fiscal year 1976;

b. 276,505 for fiscal year 1977."

This allows a caseload level to be set, providing additional funds to the department only if those levels are met.

6. On page II-58, Department of Public Welfare, add the following:  
 "Pursuant to the provisions of Article 689a-4b, V.A.T.C.S., authorization for expenditure of the funds set out in (f) of Item 14, Purchased Health Service - Non-Medicare - Contingency is made contingent upon a finding of fact by the Governor that the Department of Public Welfare has stated in writing that the monthly average of the combined number of Disabled and Blind recipients under 65 years old will exceed the following numbers for the applicable fiscal year:

1976: a. 76,778 recipients

1977: a. 84,436 recipients."

This allows a caseload level to be set, providing additional funds to the department only if those levels are met.

7. On page II-58, Department of Public Welfare, add the following:  
 "Pursuant to the provisions of Article 689a-4b, V.A.T.C.S., the appropriation for the 1976 fiscal year under Item 14.d., Purchased Health Services - AFDC and Foster Care - Contingency, is made contingent upon a finding by the Governor that the following fact exists:

That the Department of Public Welfare has stated in writing to the Governor that the

monthly average number of AFDC and Foster Care recipients eligible for Purchased Health Services shall exceed:

a. 378,256 for the fiscal year 1976.

Any unexpended balance in Item 14.d., Purchased Health Services - AFDC and Foster Care - Contingency, shall carry forward into Item 14.c., Purchased Health Services, for fiscal year 1977. This allows a caseload level to be set, providing additional funds to the department only if those levels are met. It also allows funds from this contingency, unused in fiscal year 1976, to be used in Purchased Health Services in fiscal year 1977.

8. On page II-58, Department of Public Welfare, add the following:

"No funds may be transferred into or out of Item 20 for Medical Transportation. Expenditures for Medical Transportation are specifically limited to \$3,845,098 in each the 1976 fiscal year and the 1977 fiscal year. The Department of Public Welfare is directed to use all voluntary services available to the fullest extent." This provides funds, as federally mandated, for medical transportation, and required maximum utilization of voluntary services.

9. On page II-58, Department of Public Welfare, add the following:

"Pursuant to the provisions of Article 689a-4b, V.A.T.C.S., authorization for the expenditure of the funds set out in Item 14.j., Utilization Review - Contingency, is made contingent upon finding of fact by the Governor that the Department of Public Welfare has stated in writing that funds appropriated in Item 14.i., each fiscal year have been expended." This requires, in addition to caseload restrictions, that all money appropriated for Purchased Health Services - Utilization Review be expended before the contingency funds can be released.

10. On page II-58, Department of Public Welfare, add the following:

"Pursuant to the provisions of Article 689a-4b, V.A.T.C.S., authorization for the expenditure of the funds set out in Item 21.d., Utilization Review - Contingency, is made contingent upon finding of fact by the Governor that the Department of Public Welfare has stated in writing that funds appropriated in Item 21.c., each fiscal year have been expended." This requires, in addition to caseload restrictions, that all money appropriated for Medical Services - Utilization Review be expended before the contingency funds can be released.

11. On page II-62, Texas Youth Council, add the following:

"Any unexpended funds available in the item for airconditioning dormitory buildings at Gainesville State School shall be used to air-condition dormitories at homes for dependent and neglected children." This provides that money not used for airconditioning at Gainesville will be used, as directed.

12. On page II-62, Texas Youth Council, add the following:

"There is hereby appropriated a sum not to exceed \$2,500,000 to the Texas Youth Council for the biennium beginning September 1, 1975 out of unobligated balances as of August 31, 1975 in appropriations made by House Bill No. 139, Acts of the Sixty-third Legislature, Regular Session, to the Youth Council (excluding balances in the Youth Council Building and Repair Program) to construct and operate two regional centers, not to exceed 48 beds each, to be located in El Paso and Cameron Counties. The funds appropriated above shall not be used to purchase land. The cost of constructing and equipping each regional center shall not exceed \$825,000." This allows unexpended balances of the Texas Youth Council on August 31, 1975 other than the building and repair program, to be used to construct two regional centers, not to exceed \$825,000 each, in regions geographically isolated from existing Texas Youth Council facilities.

## ARTICLE II

11. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the house and senate version in identical amounts:

1. On page II-11, Department of Health, increase Item 3 a(4), Bureau of Supporting Services to the amount of \$1,598,307 in 1976 and \$1,692,441 in 1977. These changes are due to enactment of legislation by the Sixty-fourth Legislature.

2. On page II-11, Department of Health, decrease Item 3 d(1), Bureau of Licensing and Certification to the amount of \$4,064,431 in 1976 and \$4,343,801 in 1977. This change is due to enactment of legislation by the Sixty-fourth Legislature.

3. On page II-39, Texas Rehabilitation Commission, change Item 7 Case Services (includes construction and renovation not to exceed 10% of basic support funds) to the amount of \$27,080,998 in 1976. This reflects changes in federal and other funds.

4. On page II-39, Texas Rehabilitation Commission, Method of Financing, Federal Funds, Estimated, change Item b., Vocational Rehabilitation Program to the amount of \$41,491,844 in 1976. This reflects changes in federal funding patterns.

5. In the house version, on page II-59, Texas Youth Council Central Office, Item 1b, Deputy Executive Director, change the amount for 1977 to \$29,700 for the purpose of allowing exempt positions a salary increase not to exceed \$1,800 in 1977.

#### ARTICLE II

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

C. To allow amounts to exceed the larger or be less than the smaller of either the senate or the house version of the bill as follows:

1. On page II-13, Department of Health, Out of Federal Funds, estimated, increase the amount to \$22,943,012 in 1976 and \$23,502,391 in 1977. This change is due to changing federal fund estimates.

2. On page II-28, Department of Mental Health and Mental Retardation, Big Spring State Hospital, change Item 1b, Other Administrative Services, to the amount of \$635,283 for 1977. This provides funds for salary adjustments.

3. On page II-28, Department of Mental Health and Mental Retardation, Big Spring State Hospital, change Item 3 Residential Services to the amount of \$5,840,293 for 1977. This provides funds for salary adjustments.

4. On page II-29, Department of Mental Health and Mental Retardation, Rusk State Hospital, change Item 3 Residential Services to the amount of \$13,383,145 for 1977. This provides funds for salary adjustments.

5. On page II-30, Department of Mental Health and Mental Retardation, Terrell State Hospital, change Item 3 Residential Services to the amount of \$13,906,559 in 1977. This provides for salary adjustments.

6. On page II-33, Department of Mental Health and Mental Retardation, Brenham State School, change Item 3 Residential Services to the amount of \$3,635,126 in 1976 and \$4,874,362 in 1977. This provides for salary adjustments.

7. On page II-36, Department of Mental Health and Mental Retardation, Mexia State School, change Item 3 Residential Services to the amount of \$15,941,721 in 1977. This provides for salary adjustments.

8. In the house version, on page II-45, Department of Public Welfare, Item 14c, AFDC and Foster Care, reduce amount in 1977 to \$81,404,600, due to conference committee decision to include a contingency for AFDC and Foster Care.

9. In the house version, on page II-45, Department of Public Welfare, Item 14h, Utilization Review, decrease amount in 1977 to \$1,650,000, due to conference committee decision to include a contingency for Utilization Review.

**ARTICLE II**

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

D. To allow amounts to exceed the sum specified for an item which appeared in only one version as follows:

1. In the house version, on page II-46, Department of Public Welfare, Item 23, change the amounts in Item 23 to \$1,910,621 in 1977 and add the words "with Hope Center" to the item description. This is to allow pulling together several items in the senate version which total that amount and designating clearly their location.

**ARTICLE II**

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

E. To allow the addition of the following items not included in either the house or senate version of the bill:

1. On page II-11, Department of Health, add a new Item 3 a 2 for administration of S.B. 41, Acts of the 64th Legislature, Regular Session, 1975, \$131,600 in 1976 and \$129,700 in 1977. This provides funding for newly enacted legislation.

2. On page II-11, Department of Health, add a new Item 3 d(2), Bureau of State Health and Resource Development, \$1,083,665 in 1976 and \$1,134,427 in 1977. This provides funding for legislation enacted by the 64th Legislature.

3. On page II-11, add a new Item 3 d(5), Health Maintenance Organization, \$65,485 in 1975 and \$92,100 in 1976. This provides funding for legislation enacted by the 64th Legislature.

4. On page II-17, add a new agency appropriation for the "Texas Health Facilities Commission" as follows:

For the Years Ending	
August 31,	August 31,
1976	1977

"Out of General Revenue Fund:

There is hereby appropriated to the Health Facilities Commission, for salaries and wages, merit salary increases, travel for commissioners and employees, current and recurring operating expenses, rent, capital outlay and all other necessary expenses for which no other provisions are made, the sum of

\$ 600,000      \$ 600,000 and U.B.

Any fees received under the provisions of House Bill No. 2164 shall have the effect of reducing the appropriation made above for the respective fiscal year in which the fees are received. In the event that the fees received in any fiscal year exceed the total amount appropriated for that fiscal year, the Commission may expend the excess for any purposes set out in House Bill No. 2164, Acts of the 64th Legislature, Regular Session, 1975. This provides funding for legislation enacted by the 64th Legislature.

5. On page II-17, Department of Mental Health and Mental Retardation, add a new Item 2. Board Member's Per Diem (9 at \$25). This is to break out specifically the Per Diem of Board Members.

6. On page II-24, Department of Mental Health and Mental Retardation, Construction Program, Terrell State Hospital, add a new item, "Purchase and installation of a new elevator" in the amount of \$50,000 for 1976. This is to better define construction needs for the hospital.

7. On page II-45, Department of Public Welfare, Purchased Health Services, add new Item 14d, AFDC and Foster Care - Contingency with \$8,208,296 in 1976, to allow the conference committee to split the appropriation for AFDC and Foster Care and make a part of the appropriation contingent upon growth in caseload.

8. On page II-45, Department of Public Welfare, Purchased Health Services, add new Item 14j, Utilization Review - Contingency with \$2,100,000 in 1976 and \$1,650,000 in 1977, to allow the conference committee to split the appropriation for Purchased Health Services Utilization Review and make a part of the appropriation contingent upon growth in caseload.

9. On page II-46, Department of Public Welfare, Medical Support, add new Item 21d, Utilization Review - Contingency with \$765,112 in 1976 and \$1,067,811 in 1977, to allow the conference committee to split the appropriation for Medical Support Utilization Review and make a part of the appropriation contingent upon growth in caseload.

10. On page II-64, Texas Youth Council, Crockett State School, add new Item 1, to provide operation for 100 delinquent youth, with \$1,000,000 in 1976 and \$1,000,000 in 1977. This prevents the closure of an existing state facility while providing needed services for youth.

11. On page II-64, Texas Youth Council, Crockett State School, add new Item 2, Capital construction, repairs, and renovations (non-transferable) with \$600,000 in 1976 and U.B. in 1977. This allows needed changes for the new focus of operations at Crockett.

### ARTICLE III

I. That House Rule 24, Section 8 and Senate Rule 96(a) and Joint Rule 28 are suspended to allow the following:

A. To change, alter, or amend text, which is not in disagreement in the following respects:

1. Page III-28, Attorney General's Office, Attorney General's operating fund, change Veteran's Land Board Fund No. 52 to General Land Office Special Fee Fund No. 52.

2. Page III-29, Attorney General's Office, amend house rider relating to the Position Classification Plan authorizing the Attorney General to employ technical and scientific personnel only on a professional fee basis and through interagency contracts with other agencies.

3. On page III-37, Department of Community Affairs, change rider providing for the transfer of funds from one sub-item to another within the Community Development and human resources programs to authorize such transfers for all programs. This will provide greater flexibility to the agency in providing services.

4. On page III-55, Department of Corrections, rider relating to Discharged Convicts Revolving Fund is changed to read as follows:

"The Discharged Convicts Revolving Fund of \$100,000 is continued for each year of the biennium beginning September 1, 1975, and is deposited in banks in Huntsville, Texas, and all discharged, paroled, or pardoned convicts shall be paid out of this fund. The fund shall be reimbursed by warrants drawn and approved by the Comptroller out of appropriated funds to the Department of Corrections.

The reasons for the changes are that the release of adult offenders program will increase, necessitating increased funds in the revolving accounts. The revolving fund now conforms to legislation enacted by the 64th Legislature.

5. On page III-56, Department of Corrections, rider relating to the exchange of cottonseed is changed to read as follows:



"It is the intention of the legislature that each year of the biennium the Department of Corrections may exchange cottonseed for cottonseed meal and/or cake and exchange cotton for textiles, and revenue accruing from the sale of surplus agriculture commodities or livestock is reappropriated to the Department of Corrections up to but not to exceed \$300,000. All funds in excess of \$300,000 annually shall be deposited to General Revenue. Other revenues deposited are reappropriated as they apply to sales of equipment, salvage, refunds and to recover damage claims." Allows a reappropriation to the Department of Corrections for the proceeds from agricultural commodities up to a limit of \$300,000.

6. On page III-71, Office of the Governor, Division of Planning Coordination, add the following paragraph as the paragraph for the Division of Planning Coordination:

"Every recipient of funds appropriated in Item 2 to the Division of Planning Coordination shall annually publish a complete financial statement, including a listing of receipts and expenditures by accounts, together with an enumeration of each employee of the recipient, by job title, and the annual compensation of each, and such financial statement shall be made available to each member of the Legislature, and other State Officials in compliance with the Distribution of Reports listed in Article V of this bill."

This provides a means for making the information available to the public regarding staffing and expenditures of governmental units, such as COGS, which are not directly responsible to the public.

7. On page III-142, Treasury Department, Schedule of Classified Positions, move 8051 Security Officer II from Group 8 to Group 10 to conform with Position Classification Plan.

8. On page III-150, Water Quality Board, Schedule of Classified Positions change 1986 Economist II from Group 19 to Group 18 to conform with the position classification plan.

#### ARTICLE III

1. That House Rule 24, Section 8 and Senate Rule 96(a) and Joint Rule 28 are suspended to allow the following:

C. To add text on the following matters which are not in disagreement:

1. Page III-43, State Board of Control, Item 8, add "or other Public services" to provide the state various options from which to select an electrical transmission system.

2. Page III-46, State Board of Control, places rider to ensure funds expended for full-time position assigned to maintain the Capitol Building elevators.

#### ARTICLE III

1. That House Rule 24, Section 8 and Senate Rule 96(a) and Joint Rule 28 are suspended to allow the following:

D. To add the following text on matters which are not included in either the house or senate versions of the bill:

1. On page III-29, Attorney General's Office, places a rider which excludes attorneys in the Attorney General's Office from the Position Classification Act to provide the Attorney General flexibility when employing attorneys.

2. On page III-57, Department of Corrections, a rider is added providing the Department seek advice and assistance of the State Building Commission in the construction of a meat packing facility at the Coffield Prison Unit.

This provides expert advice for the Department of Corrections prior to building the meat packing facility at the Coffield Unit.

3. On page III-77, Highway Department, Schedule of Exempt Positions, add after the last entry, Accounts Examiner III, \$16,140 in 1976 and \$17,244 in 1977. This provides a new classified position which is needed to enable the agency to carry out

its duties.

4. On page III-84, Industrial Accident Board, change Item 1d Assistant Executive Director to the amount of \$21,500 in 1976 and \$23,000 in 1977. This provides for a salary increase.

5. On page III-84, Industrial Accident Board, Method of Financing, change General Revenue to the amount of \$338,294 in 1976 and \$347,182 in 1977. This brings Method of Financing into conformity with the increase listed above.

6. On page III-86, Industrial Commission, add the following paragraph at the end of the page:

"The Industrial Commission is authorized to reallocate appropriations between or among its various line items for the purpose of continuing to make available loans under the Rural Industrial Development Act and said reallocations shall be limited to the amount necessary to match federal funds which may become available for such purposes." This provides some funding flexibility for matching federal funds as they become available.

7. On page III-87, Board of Insurance, under the method of funding add the following funds, Health Maintenance Organizations Fund, Prepaid Legal Services Fund, Fire Alarm and Detection System Fund to provide funding sources for new legislation enacted by the 64th Legislature.

8. On page III-88, Board of Insurance, under the listing of exempt positions add the titles, Legal Coordinator, State Fire Marshal and Assistant State Fire Marshal. These are added to better describe responsibilities and to provide new personnel for new legislation.

9. On page III-94, Department of Labor and Standards, add a new paragraph immediately preceding the listing of classified positions as follows:

"The contingent items above in the appropriations to the Board of Private Investigators and Private Security Agencies may only be utilized by the agency if H.B. 431 introduced in the 64th Legislature is enacted and becomes law." This is to provide adequate funding in the event of passage of legislation.

10. On page III-94, Labor and Standards add the following paragraphs immediately preceding the listing of classified positions:

"Any such Federal funds may be expended to employ personnel in those classified position titles listed in Article V of this Act or in such other positions established and approved by the State Classification Officer for use by the Department.

In addition to the appropriations otherwise provided in this Act, there is hereby appropriated to the Department of Labor and Standards and Federal funds received by the Department either directly or as an agent of the Governor. Such funds may be used for any purpose for which the Federal grant, allocation, aid or payment was made."

The reasons for these additions are to appropriate federal funds for use and to allow additional positions which may be necessary under the federal programs.

11. On page III-119, under Parks & Wildlife Department add the following rider paragraphs:

a. "The Parks and Wildlife Department is authorized to accept and expend grants and donations of \$500,000 or more from the Moody Foundation and/or the Lone Star Drama Association and enter into any contracts or agreements necessary for construction of an amphitheater in the Galveston Island State Park. The Department may match such grants and donations. In case final construction costs exceed the total amount of all funds authorized, the Moody Foundation and/or the Lone Star Drama Association shall guarantee the excess construction cost of the project.

This paragraph is added to authorize acceptance of grants and to match such grants.

b. "Funds estimated in the amount of \$289,876 in 1976 and \$240,830 in 1977 are hereby appropriated from the Special Boat Fund for implementation of a Boat Titling Program in compliance with House Bill Number 292 as passed by the Sixty-fourth Legislature, Regular Session."

This paragraph is to appropriate fees from legislation passed by the 64th Legislature.

12. On page III-144, add the following appropriation for a new agency, immediately preceding Water Development Board.

**Public Utilities Commission**

Out of the General Revenue Fund	1976	1977
1. Administration		
a. Commissioners,		
3 at \$40,500 (1976),		
3 at \$42,300 (1977)	\$ 121,500	\$ 126,900
b. Administrator	32,500	34,300
c. General Counsel	31,500	33,300
d. Other Staff Support	50,000	50,000
e. ADP	100,000	100,000
f. Consumables and Equipment	100,000	100,000
g. Rent	100,000	100,000
h. Travel	135,000	135,000
Total, Administration	670,500	679,500
2. Hearing Section		
a. Director	27,500	29,300
b. Other Salaries		
and Wages	120,000	120,000
Total, Hearing		
Section	147,500	149,300
3. Accounting Section		
a. Director	27,500	29,300
b. Other Salaries		
and Wages	100,000	100,000
Total, Accounting		
Section	127,500	129,300
4. Enforcement Section		
a. Director	27,500	29,300
b. Other Salaries	120,000	120,000
Total, Enforcement	147,500	149,300
5. Economic Research		
a. Director	26,000	27,800
b. Other Salaries	75,000	75,000
c. ADP	50,000	50,000
Total, Economic		
Research	151,000	132,800
Grand Total, Public		
Utilities Commission	1,246,000	1,260,200

The appropriations made hereinabove to the Public Utilities Commission are made contingent upon **H.B. 819**, Acts of the 64th Legislature, R.S. 1975, being enacted into law. This provides funds for implementation of legislation passed by the Sixty-fourth Legislature.

"In addition to all other funds appropriated above for the Public Utilities Commission, there are hereby appropriated any additional funds which may be collected under the provisions of **H.B. 819**, Acts of the 64th Legislature, Regular Session, 1975."

### ARTICLE III

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the house and senate version in identical amounts:

In the house version:

1. On pages III-61 and III-62, Employees Retirement System and Judicial Retirement Administration, change to the following:

	For the Years Ending	
	August 31, 1976	August 31, 1977

"For funding benefits as provided under the Employees Retirement Act (Art. 622a, V.C.S. as amended) including annual membership fees of \$10.00 for contributing members for each fiscal year estimated to be:

Out of General Revenue Fund	\$27,909,922	\$31,552,950
Out of the Highway Fund	\$20,230,340	\$22,950,947
Out of the Unemployment Compensation Administration Fund	\$ 3,836,789	\$ 4,352,766
Out of Other Special Funds	\$19,532,742	\$22,159,536
Total, State Contributions, Employees Retirement System, estimated to be	\$71,509,793	\$81,016,199

2. For the payment of death benefits as provided in House Bill No. 12, Acts of the Sixtieth Legislature, 1967, (Art. 6228f, V.C.S. as amended) estimated to be:

	\$ 1,300,000	\$ 1,400,000
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To provide funding needed to finance increased retirement benefits passed by the 64th Legislature.

2. On page III-63, Texas Employment Commission: Change Item 1a amount to \$116,100 for the year ending August 31, 1977 thereby adjusting salaries of three Commissioners to comparable salaries of other state officials in similar positions.

3. On page III-63, Texas Employment Commission: Change Item 1b amount to \$35,100 for the year ending August 31, 1977 thereby adjusting salary of administrator to comparable salary of other state administrators in similar positions.

In the house version:

4. On page III-66, Texas Employment Commission, make the following changes in the Schedule of Exempt Positions:

**Schedule of Exempt Positions**

1977

Commissioners, 3	\$38,700
Administrator	35,100
Associate Administrator	31,400
Employment Service Director	29,700
Unemployment Insurance Director	29,700
Assistant Administrator, 2	28,300
General Counsel	27,400
Assistant Attorneys General, 3	27,400

In the house version:

5. On page III-68, Board for Registration for Professional Engineers, Item 2, change amount for year ending August 31, 1976 to \$28,600 to bring salary into accord with salary of directors of other similar licensing agencies.

6. On page III-68, Board for Registration for Professional Engineers, Item 4, change amount for year ending August 31, 1976 to \$186,440 and change amount for year ending August 31, 1977 to \$201,620. This will provide funds for additional staff for added workload.

7. On page III-68, Board for Registration for Professional Engineers:

Change Item 6 amount to \$ 3,101 for the year ending August 31, 1976

Change Item 6 amount to \$ 3,882 for the year ending August 31, 1977

Change Item 7 amount to \$ 58,312 for the year ending August 31, 1976

Change Item 7 amount to \$ 65,176 for the year ending August 31, 1977

Change Item 10 amount to \$161,614 for the year ending August 31, 1976

Change Item 10 amount to \$190,105 for the year ending August 31, 1977

Funds increased to meet expenses generated by increased workload.

8. On page III-74, Office of the Governor, Payments for Contributions, Emergencies and Deficiencies, change Item 1 Contributions incident to Memberships (including Interstate Oil Compact Commission, Council of State Governments, and National Governor's Conference) to the amount of \$165,970 in 1976 and \$171,320 in 1977.

9. On page III-75, Board of Examiners in the Fitting and Dispensing of Hearing Aids, change Item 2 0135 Secretary III to the amount of \$8,352 in 1976 and \$9,216 in 1977. This provides for a salary increase.

10. On page III-76, Highway Department, Method of Financing, change the General Revenue Fund to the amount of \$650,000 in 1976 and add the words and U.B. after the \$250,000 in 1977. This makes the method of financing reflect the added appropriation of the Gulf Intracoastal Waterway.

11. On page III-105, Motor Vehicle Commission, change the amount in Item 2 Executive Director, to \$27,400 in 1976 and \$29,200 in 1977. To increase the salary to pay for duties performed.

12. On page III-105, Motor Vehicle Commission, change the amount in Item 5 Travel, to \$40,500 in 1976 to \$41,000 in 1977 to allow for increased funds for travel.

13. On page III-111, Parks and Wildlife Department, change the amounts in Item 10b. Land Acquisitions and Park Development to \$15,982,635 in

1976. To deduct an amount for acquisition of park authorized by 60th Legislature.

14. On page III-127, American Revolution Bicentennial Commission of Texas, change Item 2 Executive Director to the amount of \$25,600 in 1976 and \$25,600 in 1977. The reason for the increase is to provide a sufficient salary level so that there would not be a reduction in salary from the level enacted under Senate Bill 1, Acts of the Sixty-fourth Legislature, Regular Session, 1975.

### ARTICLE III

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

C. To allow amounts to exceed the larger or be less than the smaller of either the senate or the house version of the bill as follows:

1. On page III-8, Department of Agriculture, Method of Financing, General Revenue fund increase amounts from both senate and house versions to \$10,202,373 and \$10,742,858 for 1976 and 1977 respectively. This is to provide sufficient funding for new legislation.

2. Page III-22, Board of Architectural Examiners, Item 2 increases amounts of the senate and house versions to \$28,600 in 1976 and \$30,400 in 1977. To bring the salary of the director in line with the salaries of directors of other licensing agencies.

3. Page III-30, State Board of Barber Examiners, Item 1, increases number of Board members to 6 and allows for per diem at \$30.

4. Page III-30, State Board of Barber Examiners, Item 4, travel for Board members is increased to \$27,140 in both 1976 and 1977 to compensate the additional three members added in Item 1.

5. Page III-49, Department of Corrections, Item 1g, Business Division, increased amounts to \$754,383 in 1976 and \$824,171 in 1977. To provide for additional funds for activities related to the acquisition of the Mountain View Facility.

6. Page III-49, Department of Corrections, Item 1k, change amount for the year ending August 31, 1976 to \$495,054 and change amount for year ending August 31, 1977 to \$504,222. To provide funds for reallocation of nurse position.

7. Page III-49, Department of Corrections, Item 2a, change amount for year ending August 31, 1976 to \$444,195 and change amount for year ending August 31, 1977 to \$416,433. To provide funds for activities related to the acquisition of Mountain View facility.

8. Page III-49, Department of Corrections, Item 2b, change amount for year ending August 31, 1976 to \$370,416 and change amount for year ending August 31, 1977 to \$392,230. To provide funds for activities related to the acquisition of Mountain View facility.

9. Page III-49, Department of Corrections, the following items are changed to:

	1976	1977
3a	\$ 1,402,619	\$ 1,411,706
3b	\$10,858,012	\$11,656,170

This addition will provide for activities related to the acquisition of Mountain View facility.

10. Page III-49, Department of Corrections, Item 3d, increase amounts to \$1,967,455 in 1976 and \$1,949,795 in 1977. This addition will provide for activities related to the acquisition of Mountain View facility.

11. Page III-49, Department of Corrections, Item 3f, increase amounts to \$4,192,719 in 1976 and \$4,345,741 in 1977. This addition will provide for activities related to the acquisition of Mountain View facility.

12. Page III-49, Department of Corrections, Item 3g, Legal services increase amounts to \$388,098 in 1976 and \$389,691 in 1977. This addition will provide for activities related to the acquisition of Mountain View facility.

13. Page III-49, Department of Corrections, Item 3h, Building Maintenance increase amounts to \$3,207,285 in 1976 and \$3,331,924 in 1977. This addition will provide for activities related to the acquisition of the Mountain View facility.

14. Page III-49, Department of Corrections, Item 3i, Utilities, change amount in 1976 to \$2,000,000 and \$2,000,000 in 1977. This addition will provide for activities related to the acquisition of Mountain View facility.

15. Page III-49, Department of Corrections, Item 3m, Training, increase amount in 1976 to \$302,382. This addition will provide for activities related to the acquisition of Mountain View facility.

16. Page III-49, Department of Corrections, Item 4a, change amount for year ending August 31, 1976 to \$997,704 and change amount for the year ending August 31, 1977 to \$1,040,784. This addition will provide for activities related to the acquisition of the Mountain View facility.

17. Page III-49, Department of Corrections, Item 4b, change amount for the year ending August 31, 1976 to \$305,089 and change amount for the year ending August 31, 1977 to \$325,933. This addition will provide for activities related to the acquisition of the Mountain View facility.

18. Page III-49, Department of Corrections, Item 4c, Recreation, increase amounts for the year ending August 31, 1976 to \$132,165 and increase amount for the year ending August 31, 1977 to \$118,679. This addition will provide for activities related to the acquisition of the Mountain View facility.

19. On page III-50, Department of Corrections, Item 6, Release of Adult Offenders, increases amounts in 1976 to \$1,800,000 and \$1,800,000 in 1977. This is to provide for increases in inmate release programs as authorized by legislation passed this session, **H.B. 1688**.

20. On page III-84, Industrial Accident Board, change Item 1d, Assistant Executive Director to the amount of \$21,500 in 1976 and \$23,000 in 1977. This provides for a salary increase.

21. On page III-84, Industrial Accident Board, Method of Financing, change General Revenue to amount of \$338,294 in 1976 and \$347,182 in 1977. This brings Method of Financing into conformity with the increase listed above.

22. On page III-87, Board of Insurance, change the amounts on Item 8, Property Insurance Rating and Regulation to \$2,091,408 in 1976 and \$2,277,635 in 1977 to allow for removing funds related to fire marshal program which is included as a separate item.

23. On page III-104, Board of Medical Examiners

a. Change the amounts in Item 2 other personal services to \$168,408 in 1976 and \$192,684 in 1977.

b. Change the amounts in Item 3 travel to \$30,000 in 1976 and \$33,000 in 1977.

c. Change the amounts in Item 4 to \$78,735 in 1976 and \$82,766 in 1977. This increase is necessary to provide funding under an increase in fees.

24. On page III-128, Department of Public Safety, change Item 2d Driver License to the amount of \$8,178,859 in 1977. This provides salary increases due to additional personnel.

25. On page III-145, Water Development Board, Method of Financing, change General Revenue to the amount of \$7,929,915 in 1976 and \$8,034,646 in 1977. This provides an increase corresponding to the increase in funding for new legislation.

26. On page III-150, Water Quality Board, Method of Financing, change General Revenue to the amount of \$6,505,473 in 1976 and \$6,753,672 in 1977. This provides an increase corresponding to the increase in funding for new legislation.

27. On page III-153, Water Rights Commission, Method of Financing, change General Revenue to the amount of \$2,971,353 in 1976 and \$3,108,599 in 1977. This provides an increase corresponding to the increase in funding for new legislation.

**ARTICLE III**

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

E. To allow the addition of the following items not included in either the house or senate version of the bill:

1. Page III-7, Department of Agriculture, add a new item, Livestock Grading as provided in **H.B. 1346**, 64th Legislature, 1975, \$21,182 in 1976 and \$23,282 in 1977. To fund new legislation enacted by the 64th Legislature.

2. Page III-12, Air Control Board, add new item for administration of **S.B. 41** Acts of the 64th Legislature, 1975, \$30,000 each year for the 1976-77 biennium.

3. Page III-15, Alcoholic Beverage Commission, add new item for administration of **S.B. 41**, Acts of the 64th Legislature, 1975, \$613,287 in 1976 and \$607,353 in 1977. To fund new legislation enacted by the 64th Legislature.

4. Page III-28, Attorney General's Office, add new item for administration of **S.B. 41**, Acts, 64th Legislature \$60,500 in 1976 and \$103,400 in 1977 to fund new legislation enacted by the 64th Legislature.

5. Texas Amusement Machine Commission

	For the Year Ending	
	August 31, 1976	August 31, 1977

"Out of the General Revenue Fund:

Registration of Pleasure  
Coin-Operated Machines  
and Collection of Annual  
Occupation Tax

Personal Services—

1. Per Diem of Commissioners	\$ 1,600	\$ 1,600
2. Executive Director	25,000	26,700
3. Salaries of Classified Positions	261,965	279,156
4. Merit Salary Increases	<u>4,453</u>	<u>4,745</u>
Total, Personal Services	\$ 293,018	\$ 312,201

Other Expenses—

5. Travel	73,000	73,000
6. Consumable supplies and materials, current and recurring operating ex- penses (excluding travel) and capital outlay	<u>66,920</u>	<u>66,470</u>

**GRAND TOTAL, TEXAS AMUSEMENT  
MACHINE COMMISSION**

**\$ 432,938    \$ 451,671**

The appropriation made herein above is contingent upon the enactment by the 64th Legislature, Regular Session of **S.B. 869**.

6. Page III-32, State Building Commission, Item 5h, appropriating \$10.00 in 1976 for the acquisition of land in Kerr County for state office building which can be used by the Comptroller of Public Accounts.



7. Page III-35, Civil Air Patrol Commission, add a new Bill pattern and amounts of funds as follows to provide for the rescue and emergency services.

8. On page III-30 add the following pattern and funds:

**Department of Banking**

For the Years Ending	
August 31,	August 31,
1976	1977

**Out of the Prepaid Funeral  
Contract Fund:**

For salaries and other expenses necessary to enforce the provisions of Senate Bill No. 52, Chapter 512, Acts of the Fifty-fourth Legislature (Article 5486, V.A.C.S.) there is hereby appropriated all balances and receipts estimated to be

\$	31,000	\$	31,600
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The increase is to provide funds for an agency which was deleted contingent upon duties being transferred to another agency.

9. On page III-39, Comptroller of Public Accounts, add Item 8, for the administration of **H.B. 605**, 64th Legislature, \$3,000,000 in 1976 and \$300,000 in 1977.

10. Page III-42, Deficiency Warrants and Claims, add the sum of \$4,739.82 for 1976 for the payment of deficiency warrants issued under the authority of V.A.C.S. 4351.

11. On page III-54, Department of Corrections, insert the following rider:

"The funds appropriated above to the Department of Corrections include \$3,617,611 in fiscal 1976 and \$3,441,413 in fiscal 1977 for the operation of the Mountain View facility transferred to the Texas Department of Corrections by **S.B. 1011**, 64th Legislature."

This summarizes the changes due to transferring the Mountain View facility which are spread throughout the appropriation for the Department of Corrections.

12. On page III-74, Office of the Governor, add the following two paragraphs:

**"Disaster Contingency Fund"**

"On September 1, 1975, the Comptroller of Public Accounts shall transfer the sum of \$2,000,000 from the General Revenue Fund to the Disaster Contingency Fund.

There is hereby appropriated out of Disaster Contingency Fund the sum of \$2,000,000 for the biennium beginning September 1, 1975 for the purpose of implementing the provisions of House Bill 2032, Acts of the Sixty-fourth Legislature.' This provides for funds to implement legislation passed by the 64th Legislature.

13. On page III-74, Office of the Governor, add the following appropriations:

**Governor's Energy Advisory Council**

For the Years Ending	
August 31,	August 31,
1976	1977

1. Administration		
a. Executive Director	\$ 35,000	\$ 36,000
b. Associate Executive Director	28,000	29,500
c. Other Salaries and Wages	150,000	160,000
d. Consultants	50,000	50,000
e. Travel	15,000	15,000
f. Consumable Supplies and Equipment	85,000	85,000
g. Per Diem for Advisory Committee Members	<u>4,500</u>	<u>4,500</u>
Total, Administration	\$ 367,500	380,000
	For the Year Ending	
	August 31, 1976	August 31, 1977
2. Policy analysis and Planning Data Bank Development, Economic Modeling, Conservation, Other Expense and Federal/State Relations	<u>\$ 750,000</u>	<u>\$ 750,000</u>
GRAND TOTAL, GOVERNOR'S ENERGY ADVISORY COUNCIL	<u>\$ 1,117,500</u>	<u>\$ 1,130,000</u>

This provides for implementation of legislation passed by the 64th Legislature.

14. On page III-76, Highway Department, add a new Item 8 as follows:

	For the Year Ending	
	August 31, 1976	August 31, 1977
"8. Gulf Intracoastal Waterway		
a. For Administration of S.B. 472 Acts of the Sixty-fourth Legislature, Regular Session, 1975	\$ 100,000	\$ U.B.
b. For purchase of right-of-way, if necessary, in accordance with the provisions of S.B. 472, Acts of the Sixty-fourth Legislature, Regular Session, 1975.	300,000	U.B."

This provides funds for implementation of legislation passed by the Sixty-fourth Legislature.

15. On pages III-82, Commission for Indian Affairs, add a new Item 16 For Lease of State-owned Land, in the amount of \$1,500 in 1976 and \$1,500 in 1977. This provides funds for the leasing of land for the Tourist Development Project.

16. On page III-87, Board of Insurance, add a new Item "For administration of S.B. 41, 64th Legislature \$118,600 and \$113,900." The reason for the addition is to allow funding of new legislation enacted by the 64th Legislature.

17. On page III-87, Board of Insurance, add a new Item State Fire Marshall Program at \$683,475 in 1976 and \$714,695 in 1977 to provide funds for new legislation enacted by the 64th Legislature.

18. On page III-87, Board of Insurance, add a new Item Health Maintenance Organization Program at \$128,513 in 1976 and \$157,589 in 1977 to provide funds for new legislation enacted by the 64th Legislature.

19. On page III-87, Board of Insurance, add a new Item Prepaid Legal Service Program, at \$264,072 in 1976 and \$284,215 in 1977 for new legislation.

20. On page III-94, Labor and Standards, add the following new items:

Administration of S.B. 41, Acts of the 64th Legislature \$41,242 in 1976 and \$38,694 in 1977; Administration of H.B. 1925 64th Legislature \$61,563 in 1976 and \$64,853 in 1977; Administration of S.B. 509 \$12,090 in 1976 and \$9,032 in 1977.

These Items will be for funding of new legislation passed by the 64th Legislature.

21. On page III-104, Board of Medical Examiners, add a new Item merit salary increases of \$5,625 in 1976 and \$5,625 in 1977. This provides funds for merit salary increases to classified personnel.

22. On page III-112, Parks and Wildlife, add a new Item for acquisition of a state park authorized by the 60th Legislature at \$350,000 in 1976 and U.B. in 1977. The addition is to provide funds to acquire a park authorized by the 60th Legislature.

24. On page III-120 between the patterns for Pest Control Board & Board of Examiners of Psychologists insert the following pattern:

**"Board of Physical Therapy Examiners**

		For the Year Ending	
		August 31,	August 31,
		1976	1977
Out of General Revenue Fund:			
Personal Services—			
1. Per Diem for Board Members	\$	2,160	\$ 2,160
2. Secretary		6,000	6,550
3. Part time and Seasonal help including Investigative and Enforcement services		5,500	5,500
Total, Personal Services	\$	13,660	\$ 14,210
4. Travel Expense		6,000	6,700
5. Examination Expense		6,000	5,850
6. Consumable supplies and materials, current and recurring operating expenses (excluding travel expense), contingent expenses, expenses for enforcement purposes and court costs (including travel expense for witnesses, publication			

of notices, and purchase of evidence), and capital outlay	<u>7,300</u>	<u>6,200</u>
Grand Total, Board of Physical Therapy Examiners	<u>\$ 32,960</u>	<u>32,960</u>

This is added to provide funds for an agency which was deleted contingent upon its being consolidated into the Department of Health Resources.

25. On page III-121 under the Railroad Commission, add a new Item "Oil & Gas Mineral Leases (S.B. 3) \$174,944 in 1976 and \$188,974 in 1977. This is to provide funds for legislation enacted by the 64th Legislature relating to sales of gas outside the state.

26. On page III-121 under the Railroad Commission, add a new Item "For administration of S.B. 41 \$67,500 in 1976 and \$67,500 in 1977. This is to provide funds for the administrative procedures Act passed by the 64th Legislature.

26a. On page III-121 under the Railroad Commission add a new item "Out of the General Revenue Fund for funding of S.B. 55, 64th Legislature, \$250,000 in 1976 and \$750,000 in 1977."

27. On page III-125 between the patterns for the Railroad Commission and Real Estate Commission, add the following pattern and funds:

**Board of Managers of the Texas State Railroad**

	For the Years Ending	
	August 31, 1976	August 31, 1977
Out of General Revenue Fund For part-time salaries and wages, consumable supplies and materials, current and recurring operating expenses	\$ 500	\$ 500

This is to reinstate an appropriation deleted in anticipation of legislation transferring the functions to another agency.

28. On page III-125 under the Real Estate Commission, add a new Item for the administration of S.B. 344 \$70,286 in 1976 and \$70,056 in 1977. This is to add funds for new legislation enacted by the 64th Legislature.

29. On page III-127, immediately following the American Revolution Bicentennial Commission of Texas add the following appropriation:

**Board of County and District Road Indebtedness**

	For the Years Ending	
	August 31, 1976	August 31, 1977
Out of the County and Road District Highway Fund:		
1. Director	\$ 26,200	\$ 28,000
2. Assistant Director	25,700	27,400
3. Salaries of Classified Positions	69,768	75,694
4. Merit Salary Increases	<u>1,186</u>	<u>1,287</u>
Total, Personal Services	\$ 122,854	\$ 132,381
Other Expenses—		
5. Consumable supplies and materials, current and recurring operating		

expenses and capital outlay	<u>6,974</u>	<u>6,974</u>
Total, Administrative Expense	\$ 129,828	\$ 139,355
6. There is hereby appropriated, pursuant to Chapter 13, Acts of the Third Called Session, Forty-Second Legislature, as amended, the State's portion which will be expended by this agency, estimated at:		
a. Distribution to Counties	7,300,000	7,300,000
b. Bond Retirement	<u>22,000</u>	<u>23,000</u>
GRAND TOTAL, STATE FUNDS, CERTAIN AND ESTIMATED, BOARD OF COUNTY AND DISTRICT ROAD INDEBTEDNESS		
	<u>7,451,828</u>	<u>7,462,355</u>

**Schedule of Classified Positions,  
Board of County and District Road Indebtedness**

**0135 Secretary III  
1161 Accountant I, 2  
1163 Accountant III  
1165 Chief Accountant II**

All balances and receipts accruing to the County and Road District Highway Fund, No. 57, are hereby appropriated for the purposes set forth in Chapter 13, Acts of the Third Called Session, Forty-second Legislature, as amended.

The reason for this addition is that the agency's appropriation was omitted by the House and Senate Appropriations Bills contingent upon passage of legislation consolidating the agency with the Comptroller of Public Accounts, but the legislation was not enacted.

30. On page III-132, Secretary of State, add a new Item 1f for administering the provisions of **S.B. 300**, Acts of the 64th Legislature, Regular Session, 1975, in the amount of \$201,418 in 1976 and U.B. in 1977. This provides funds for administration of legislation enacted by the Sixty-fourth Legislature.

31. On page III-132, Secretary of State, add a new Item 2f(1) for administration of **H.B. 643**, Acts of the Sixty-fourth Legislature, Regular Session, 1975, in the amount of \$15,000 for 1976 and \$15,200 for 1977. This provides for administration of legislation enacted by the Sixty-fourth Legislature.

32. On page III-133, Secretary of State, by adding a new Item 2h(i) for administration of **S.B. 165**, Acts of the Sixty-fourth Legislature, Regular Session, 1975 in the amount of \$27,800 in 1976 and \$27,800 in 1977. This provides funds for administration of legislation enacted by the Sixty-fourth Legislature.

33. On page III-144, Water Development Board, add a new Item 6 for administration of **S.B. 41**, Acts of the Sixty-fourth Legislature, 1975 in the amount of \$22,000 for 1976 and \$23,700 for 1977. This provides funds for administration of legislation enacted by the Sixty-fourth Legislature.

34. On page III-150, Water Quality Board, add a new Item 9 for administration of **S.B. 41**, Acts of the Sixty-fourth Legislature, Regular Session, 1975 in the amount of \$7,000 for 1976 and \$7,000 in 1977. This provides funds for administration of legislation enacted by the Sixty-fourth Legislature.

35. On page III-153, Water Rights Commission, add a new Item 9 for administration of **S.B. 41**, Acts of the Sixty-fourth Legislature, Regular Session, 1975

in the amount of \$13,150 for 1976 and \$14,000 for 1977. This provides funds for administration of legislation enacted by the Sixty-fourth Legislature.

#### ARTICLE IV

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

A. To change, alter, or amend text which is not in disagreement in the following respects:

1. On page IV-50, Moody College of Marine Sciences and Maritime Resources, change Item 8 (a) Renovation of Laboratory (Fort Crockett) to read "Renovation of Building 311, Fort Crockett."

In the house version:

2. On page IV-69, Texas Southern University, Item 9c delete the words (Special Supplement) to more accurately describe the Item.

3. On page IV-75, change the name Tyler State College (wherever it appears) in the three paragraphs to Texas Eastern University.

4. On page IV-87, Special Provisions relating only to State Agencies of Higher Education, Section 19, Definition of Terms, change Tyler State College to:

a. Texas Eastern University

5. On pages IV-100, 103, Recapitulation - Article IV, change Tyler State College to:

a. Texas Eastern University

#### ARTICLE IV

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

C. To add text on the following matters which are not in disagreement:

1. On page IV-29, The University of Texas at Dallas, Item 8 (a), Major Repairs and Rehabilitation, the following language was added to describe the necessity for the rehabilitation:

"Conversion of Utility Building into Classroom/office space."

2. On page IV-30, The University of Texas at El Paso, Item 10, Major Repairs and Rehabilitation, is changed to correct an error as follows:

10. Repairs and Rehabilitation of Facilities (non-transferable).

#### ARTICLE IV

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

D. To add the following text on matters which are not included in either the house or senate versions of the bill:

1. On page IV-2, Central Education Agency add a new paragraph as follows:

"Contingent upon the enactment of House Bill No. 1126, Acts of the Sixty-fourth Legislature, Regular Session, 1975, there are hereby appropriated out of the Foundation School Fund, or out of the General Revenue Fund as may be necessary from time to time, additional funds which, together with the appropriations made specifically in this Act, will be sufficient to carry out the purposes of House Bill No. 1126. Said appropriations made in the sentence immediately preceding include additional funds for the Special Education Program and the Day Schools for the Deaf Program which, together with the sums certain appropriated elsewhere in this Act for those purposes, will be sufficient to provide the salary increases authorized by House Bill No. 1126 for personnel employed in the Special Education and Day Schools for the Deaf Programs." The reason for the addition of the language is to allow for salary and other increases which may be given under H.B. 1126.

2. On page IV-5, Central Education Agency, add a new paragraph as follows:

"The Central Education Agency shall notify the managers of the eligible programs which participate in the item 'Other Adult Programs' (16d) by September 15th of each year, the amount of funds which are available for these programs annually." This is to be added to insure that persons conducting adult programs are aware of the amounts available.

3. On page IV-8, Central Education Agency add a new paragraph as follows:

"Out of the sums appropriated above for Henderson County Jr. College, there is included \$30,000 in fiscal 1976 for a Farm and Ranch Management Program." The reason for the addition of the language is to insure that the Central Education Agency knows the purpose for which the money was included.

4. On page IV-19, Texas Public Junior College-State Aid, add a new paragraph as follows:

"Out of the sums appropriated above for Henderson County Junior College, there is included \$20,000 in fiscal 1976 for a Farm and Ranch Management Program." The reason for the addition of the language is to insure that the Coordinating Board, Texas College and University System knows the purpose for which the money was included.

5. On page IV-28, The University of Texas at Austin, Permanent University Fund projects, Item 5, Art Museum, add "and Performing Arts Center" which was erroneously omitted.

6. On page IV-33, The University of Texas at San Antonio, add a new paragraph as follows:

"The University of Texas at San Antonio is authorized to provide space and assistance for the operation of a Regional Historical Resource Depository." The reason for the addition of the language is to provide authorization for assistance for the Regional Historical Reserve Depository by The University of Texas at San Antonio.

7. On page IV-36, The University of Texas Medical Branch at Galveston, add "at least" before the number of undergraduate medical student enrollments specified for each year of the biennium in order to emphasize that the enrollment numbers are minimum required enrollments.

8. On page IV-35, The University of Texas Health Science Center at Houston, add "at least" before the number of undergraduate medical student enrollments specified for each year of the biennium in order to emphasize that the enrollment numbers are minimum required enrollments.

10. On page IV-48, Texas Agricultural Extension Service, add a new paragraph as follows in order to provide for additional personnel under this service.

"Three (3) State Specialist positions are added: one (1) 4-H and Youth Specialist, one (1) Maintenance and Water Plant Superintendent, and one (1) Dietician and Food Specialist, and one (1) Assistant 4-H and Youth Specialist at the Brownwood Center; one (1) Plant Nutrition Specialist-Greenhouse Vegetable Production at College Station; one (1) Agronomist-Sunflowers, Flax, and Oil Seed Crops at College Station. New Area Specialist positions created are one (1) Area Horticulturist in District 13, one (1) Area Information Specialist in District 13, one (1) Area Livestock Specialist in District 10, one (1) Area Beef Cattle Specialist in District 11, and one (1) Area Plant Pathologist in District 6. Also, \$92,400 is to be expended each year for three positions (a statewide Pest Management Project Leader, a Data Manager, and one Area Entomologist) for the Statewide Pest Management Plan for Cotton and Grain Sorghum.

In the house version:

11. On page IV-53, Tarleton State University, Item 10-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to

Item 10 only.

12. On page IV-56, Texas A&I University at Corpus Christi add the following: "Any unexpended balance in the appropriation item 'For construction and equipping of a central mechanical plant and a classroom - office building,' as of August 31, 1975, is hereby reappropriated for the biennium beginning September 1, 1975, for the same purpose." This will allow use of the funds toward completion of the building projects previously approved.

13. On page IV-57, Texas A&I University at Kingsville, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

14. On page IV-59, East Texas State University, Item 11, Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

15. On page IV-61, University of Houston, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict the use of funds to Item 11 only.

16. On page IV-61, University of Houston, add the following:

"The Board of Regents of the University of Houston is hereby authorized to accept grants, donations, gifts and matching grants from Federal and State agencies, and to expend bond proceeds and funds available to it under Section 17 of Article 7, Texas Constitution for the purpose of acquiring, construction, equipping and furnishing any one or more of the following buildings or projects at the University of Houston main and downtown campuses:

- (1) Central plant expansion
- (2) Central campus lecture hall addition
- (3) Office Annex
- (4) Science and research unit two, steps one and two
- (5) Library expansion, steps one and two
- (6) Humanities building, steps one and two
- (7) Technology building, steps one and two
- (8) Law school expansion, teaching unit and parking facilities
- (9) Optometry buildings
- (10) Computing center
- (11) High-energy electron microscope building
- (12) Fine Arts building, unit two
- (13) Cullen Boulevard Plaza
- (14) Dormitory quadrangle facilities
- (15) Parking lot expansion and lighting
- (16) Architecture/Fine Arts facility
- (17) Engineering addition
- (18) Utilities expansion
- (19) Acquisition, equipping and modernization of downtown campus building and parking facilities and construction at such campus."

This will provide the University of Houston flexibility in the use of grants, donations, gifts and matching grants for use in the construction and equipping of the projects listed.

In the house version:

17. On page IV-62, University of Houston at Clear Lake City, add the following:

"The Board of Regents of the University of Houston at Clear Lake City is hereby authorized to accept grants, donations, gifts and matching grants from Federal and State agencies, and to expend bond proceeds and funds available under Section 17, Article 7, Texas Constitution, for the purpose of acquiring, constructing, equipping, and furnishing any one or more of the following buildings or projects at the University of Houston at Clear Lake City:



- (1) Site work and completion, part two
- (2) Physical plant facility, central plant, administrative office, classroom, lab, office and supportive facility
- (3) Physical education facility'

The purpose is to provide the University of Houston at Clear Lake City flexibility in use of grants, donations, gifts and matching grants to complete any one or more of the projects listed.

18. On page IV-64, Lamar University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict the use of funds to Item 11 only.

19. On page IV-65, Midwestern University, Item 9-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 9 only.

20. On page IV-66, North Texas State University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

21. On page IV-68, Stephen F. Austin State University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict the use of funds to Item 11 only.

In the house version:

22. On page IV-74, Texas Woman's University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

23. On page IV-76, West Texas State University, Item 10-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

24. On page IV-78, Angelo State University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

25. On page IV-79, Sam Houston State University, Item 11, Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

In the House version:

26. On page IV-80, Sam Houston State University, add the following:

"The Board of Regents for the State Senior Colleges is hereby authorized to accept grants, donations, gifts and matching grants from Federal and State agencies, and to expend bond proceeds and funds available to it under Section 17 of Article 7, Texas Constitution, for the purpose of acquiring, constructing, altering, repairing, equipping and furnishing any one or more of the following buildings or projects on the Sam Houston State University campus:

Central Air-Conditioning Plant  
Water Distribution System  
Industrial Education and Technology Building  
Education Building  
Sam Houston's Home, Law Offices, and Steamboat  
House on the Sam Houston Museum Grounds.'

This addition provides flexibility to the Board of Regents for the State Senior Colleges in the use of gifts, grants and donations in the constructing of any one or more of the projects listed.

27. On page IV-81, Southwest Texas State University, Item 11-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict use of funds to Item 11 only.

28. On page IV-82, Sul Ross State University, Item 9-Repairs and Rehabilitation of Facilities, add the word (non-transferable) to restrict the use of funds to Item 9 only.

29. On page IV-87, Special Provisions relating only to State Agencies of Higher Education, Section 19, Definition of Terms, insert:

- a. East Texas State University at Texarkana
- b. University of Houston, Victoria Center

30. On page IV-95, Special Provisions relating only to State Agencies of Higher Education, Section 39, Utility Revolving Fund, add all components of The University of Houston to the Utility Revolving Fund.

31. On page IV-96, Special Provisions relating only to State Agencies of Higher Education, Section 45, add the following paragraph:

"Section 45. Funds for annual salary increases are provided in the amount hereinabove appropriated for wages and salaries for exempt and classified positions. Salary increases may be given in accordance with the following schedule for those employees making \$10,500 or more, and increases shall be given in accordance with the following schedule for non-faculty employees making less than \$10,500 a year:

Employees with Annual Salary Rates on  
January 31, 1975 of:

Less than \$10,500	18.2%	6.8%
\$10,500 or more	14.3%	6.8%

Such increases shall be in addition to the salary rates as of January 31, 1975, and shall apply to only those salaries paid from funds hereinabove appropriated.

The paragraph was added in order to provide for non-faculty salary increases for fiscal years 1976 and 1977.

32. On page IV-96, Special Provisions Relating only to State Agencies of Higher Education, Section 46, add the following paragraph:

"As a further limitation and restriction on funds appropriated to the general academic institutions in this Article for Faculty Salaries, no such funds shall be paid to any full time, undergraduate teaching faculty member with the rank of Assistant Professor or above who does not teach at least a 9 hour course load or its academic equivalent in each full semester; for such faculty members employed for less than full time teaching, the teaching load shall be proportioned; and for such faculty members teaching undergraduate and graduate course on a full time basis, the undergraduate teaching load shall be proportioned. The paragraph was added in order to insure that undergraduate faculty teach at least a nine hour course load, and the other faculty members teach proportionately.

33. On pages IV-99, 102, Recapitulation - Article IV, insert

- a. Texas College of Osteopathic Medicine

34. On page IV-97, Special Provisions, insert the following provisions:

Notwithstanding the specific listing of approval of facilities construction projects following appropriations to various component units of The University of Texas System, the Texas A&M University System, East Texas State University, University of Houston, Sam Houston State University, and Stephen F. Austin State University, such listings shall not constitute approval by the Legislature as contemplated by Senate Bill No. 706, Sixty-fourth Legislature.

#### ARTICLE IV

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

A. To delete the following items appearing in both the house and senate versions of the bill:

1. On page IV-18, Coordinating Board, Texas College and University System, delete Item 8, Funding for Texas College of Osteopathic Medicine, to allow the funding of this school under North Texas State University.

11. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the house and senate version in identical amounts:

1. On page IV-1, Central Education Agency, change the amounts in Item 1 (a), Commissioner of Education, to \$42,300 in 1977 for the purpose of allowing exempt positions no greater than a \$1,800 increase in 1977.

2. On page IV-1, Central Education Agency, change the amounts in Item 10, State Textbook Fund, to \$53,629,329 in 1976 and U.B. in 1977 for the purpose of providing for unanticipated cost increases in the program.

3. On page IV-11, Central Education Agency, change the amounts under "Schedule of Exempt Positions" for 1977 for the purpose of allowing exempt positions no greater than a \$1,800 increase in 1977. The amounts are to be as follows:

#### Schedule of Exempt Positions

	For the Year Ending August 31, 1977
Commissioner of Education	\$42,300
Deputy Commissioner for Educational Programs and Personnel Development	36,600
Deputy Commissioner for Educational Administration Services	36,600
Assistant Deputy Commissioner for Educational Programs and Personnel Development	30,300
Assistant Deputy Commissioner for Educational Administration Services	30,300
Associate Commissioner, II	30,300
Legal Counselor	30,300
Director of Deaf Education	28,800

4. On page IV-17, Coordinating Board, Texas College and University System, change the amount in Item 1, Commissioner of Higher Education to \$40,000 in 1977 for the purpose of allowing exempt positions no greater than a \$1,800 increase in 1977.

#### ARTICLE IV

11. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the house and senate version in identical amounts:

In the house version:

5. On page IV-56, Texas A&I University at Kingsville, change amount of Item 4 (b) to read \$928,606 for the year ending August 31, 1976. This reduction made in accord with formula funding.

In the house version:

6. On page IV-69, Texas Southern University:

Change Item 4a to read \$5,052,878 for the year ending August 31, 1976

Change Item 4a to read \$5,396,961 for the year ending August 31, 1977

Change Item 4b to read \$927,288 for the year ending August 31, 1976

Change Item 4b to read \$1,020,172 for the year ending August 31, 1977

Change Item 6a to read \$330,722 for the year ending August 31, 1976

Change Item 6a to read \$384,450 for the year ending August 31, 1977

Change Item 6b to read \$240,496 for the year ending August 31, 1976

Change Item 6b to read \$254,649 for the year ending August 31, 1977

These changes will adjust appropriations to provide a separate funding pattern for the school of law.

7. On page IV-69, Texas Southern University:

Change Item 9c(1) to read \$513,240 for the year ending August 31, 1976

Change Item 9c(1) to read \$548,140 for the year ending August 31, 1977

Change Item 9c(2) to read \$34,734 for the year ending August 31, 1976

Change Item 9c(2) to read \$38,897 for the year ending August 31, 1977

Change Item 9c(3) to read \$185,439 for the year ending August 31, 1976

Change Item 9c(3) to read \$207,691 for the year ending August 31, 1977

These changes add funds transferred from other formula items to show separate funding for the school of law.

8. On page IV-69, Texas Southern University:

Change Item 9f to read \$356,000 for the year ending August 31, 1976 and U.B. for the year ending August 31, 1977, to provide flexibility in use of the funds.

9. On page IV-71, Texas Tech University, change Item 10e to read \$277,000 for the year ending August 31, 1976. The addition of funds will allow for completion of this project in addition to the normal operating expenses.

#### ARTICLE IV

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

C. To allow amounts to exceed the larger or be less than the smaller of either the senate or the house version of the bill as follows:

1. On page IV-3, Vocational Technical Programs,

a. Change the amounts on Item b(1) Alvin Junior College to \$946,720 in 1976 and \$1,025,147 in 1977 to provide for start-up funds for program to train court reporters.

b. Change the amounts on Item b(5) Bee County College to \$910,265 in 1976 and \$979,113 in 1977 to correct agency and college computational error on numbers of contact hours.

2. On page IV-4, Vocational Technical Programs, change the amounts on Item b(19) Henderson County Junior College, to \$499,941 in 1976 to provide start-up funds for the vocational portion of a farm management program.

3. On page IV-20, Texas Public Junior College-State Aid.

a. Change the amounts for Henderson County Junior College, to \$891,405 in 1976 to provide start-up funds for the vocational portion of a farm management program.

4. On page IV-28, The University of Texas at Austin, Item 10(n) Clinical Pharmacy Programs, is changed to \$152,487 for 1976 and \$212,130 for 1977 in order to provide uniform funding for this program.

5. On page IV-31, The University of Texas of the Permian Basin, change the amount on Item 3, Staff Benefits for 1977 to \$53,419 in order to make that year's amount conform to 1976.

6. On page IV-47, Texas Agricultural Extension Service, change the amount on Item 2, Staff Benefits to \$207,356 for 1976 and 1977 in order to provide for the addition of new personnel.

7. On page IV-47, Texas Agricultural Extension Service, change the amount on Item 4, County Extension Work, to \$14,468,057 for 1976 and \$15,433,994 for 1977 to provide for the addition of new personnel.

8. On page IV-47, Texas Agricultural Extension Service, change the amounts on Item 5, Specific Activities to \$6,701,707 for 1976 and \$7,104,837 for 1977 in order to provide for the rider providing for State Specialist positions, a Youth Specialist, and other new Specific Activities positions under the Texas Agricultural

Extension Service.

In the house version:

9. On page IV-69, Texas Southern University:

Change Item 9c to read \$61,705 for the year ending August 31, 1976

Change Item 9e to read \$71,400 for the year ending August 31, 1977

Changes in funds were made to provide a uniform funding pattern for all clinical pharmacy programs in colleges and universities.

#### ARTICLE IV

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

D. To allow amounts to exceed the sum specified for an item which appeared in only one version as follows:

In the house version:

1. On page IV-53, Tarleton State University, Item 10, add Honeywell Ranch \$50,000 for the year ending August 31, 1976. The purpose of this appropriation is to provide a program in farm and ranch management.

In the house version:

2. On page IV-76, West Texas State University, change Item 9f - Library Books amount to read \$400,000 for the year ending August 31, 1976 and U.B. for the year ending August 31, 1977. The change allows full use of funds in first year to expedite improvement in library materials.

#### ARTICLE IV

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

E. To allow the addition of the following items not included in either the house or senate version of the bill:

1. On page IV-26, The University of Texas at Arlington, add to Item 9 (f), Utilities, the following language in order to break out the difference between purchased and other utilities:

	<u>1976</u>	<u>1977</u>
(a) Purchased utilities (non-transferable)	\$9,844,192	\$12,457,900
(b) All other utilities	1,967,500	2,133,200

2. On page IV-30, The University of Texas at El Paso, add to Item 8 (f), Utilities, the following language in order to differentiate between purchased utilities and other utilities:

(a) All other utilities (1976 - \$40,013) (1977 - \$53,116).

3. On page IV-31, The University of Texas of the Permian Basin, Item 7 (a) Special Items was lumped together to provide for greater flexibility.

7(a) Special Items (non-transferable)	<u>1976</u>	<u>1977</u>
	\$150,000	U.B.

4. On page IV-46, Texas Agricultural Experiment Station, add Item 6 as follows:

6. Poultry disease control	<u>1976</u>	<u>1977</u>
	\$100,000	\$100,000

The item was added in order to provide for the control of poultry diseases.

In the house version:

5. On page IV-66, North Texas State University, add the following to provide full funding for the Texas College of Osteopathic Medicine:

**Texas College of Osteopathic Medicine**  
(Under the Board of Regents of North Texas State University)

	For the Years Ending	
	August 31, 1976	August 31, 1977
Out of the General Revenue Fund:		
1. All educational and general expenses, including plant operation, necessary rent, planning and architect fees	\$ 6,558,126	\$ 6,411,245 & U.B.
2. Construction	<u>8,000,000</u>	<u>&amp; U.B.</u>
Grand total, Texas College of Osteopathic Medicine	<u>\$14,558,126</u>	<u>\$ 6,411,245 &amp; U.B.</u>

It is the intent of the Legislature that the total osteopathic student enrollment shall be not less than 234 students in the year ending August 31, 1976 and that the total enrollment of osteopathic students shall be not less than 254 in the year ending August 31, 1977, or as nearly equal to those specified enrollments as the reasonable qualifications of applicants and students permit.

#### ARTICLE V

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

A. To change, alter, or amend text which is not in disagreement in the following respects:

1. On page V-43, Travel Regulations, Section 17, paragraph (2) add the following sentence: "The following agencies are authorized replacement purchases of state-owned aircraft, which are destroyed or seriously damaged, with aircraft of comparable quality: Texas A&M University System, Department of Mental Health and Mental Retardation, Aeronautics Commission, Department of Agriculture, Department of Corrections, Governor's Office, General Land Office, Parks and Wildlife Department, Department of Public Safety and Texas Tech University."

2. On page V-46, Other Provisions, Section 29, change "shall" in the fourth paragraph, line 2, to "may" and "shall" in the fourth paragraph, line 7 to "may" to make the provision permissive rather than mandatory.

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

D. To add the following text on matters which are not included in either the house or senate versions of the bill:

1. On page V-28, Salary Provisions, insert the following new paragraph:

"In cases where the Personal Services Appropriations contain a line item entitled 'Merit Salary Increases,' it is legislative intent that merit salary increases be authorized for line item positions which correspond to classified titles in Article V of this Act. Increments awarded will correspond to the step increment amounts in the Salary Schedules in Article V of this Act and it is further provided that

the provisions of Section 1d, Article V will be followed in making these awards."

The reason for this is to allow line item positions to receive merit salary increases.

2. On page V-52, Other Provisions, insert the following new paragraph in Section 51:

"Each agency shall file an annual report under guidelines developed by the Legislative Budget Board and Governors Budget Office showing performance and workload measures for each line-item program or activity for the fiscal year. The report shall also contain a comparison to estimated performance and workload measures, forecast in the budget request, and explanations for any major variance by measure."

The reason for this addition is to establish a procedure for verifying program performance.

3. On page V-56, Other Provisions, add the following sentence to the end of Section 62: "The estimated amount of these advances is \$30,000,000." The reason for this addition is to specify an estimated figure.

#### ARTICLE VI

I. That House Rule 24, Section 8 and Senate Rule 96 (a) and Joint Rule 28 are suspended to allow the following:

A. To change, alter, or amend text which is not in disagreement in the following respects:

1. On page VI-4, Legislative Auditor, add the following change the first full paragraph to read as follows: "The sums appropriated for the Auditor's Department are to be expended under the direction and subject to the control of the Legislative Audit Committee in furtherance of the functions assigned by statute to the Department." The reason for the change is to provide reference other than statutory citations as to expenditure of funds.

II. That House Rule 24, Section 9 and Senate Rule 96 (b) and Joint Rule 28 are suspended to allow the following:

B. To change the following items of appropriation which appear in the House and Senate version in identical amounts:

2. On page VI-2, Legislative Budget Board, change the amounts to \$1,353,572 in 1976 and \$1,435,830 in 1977 for the purpose of funding new responsibilities added by the 64th Legislature.

The Conference Committee Report was read and was adopted by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 869

Senator Clower submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton

Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 869** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CLOWER  
MAUZY  
KOTHMANN  
SANTIESTEBAN  
HARRIS  
On the part of the Senate

TEMPLE  
RAGSDALE  
BROWN  
HENDRICKS  
WHITMIRE  
On the part of the House

#### A BILL TO BE ENTITLED

#### AN ACT

relating to the taxation and regulation of the coin-operated machine industry; amending Sections 1 and 4, and adding Section 8, Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 4413(41), Vernon's Texas Civil Statutes); amending Chapter 13, Title 122A, Taxation--General, Revised Civil Statutes of Texas, 1925, as amended; defining offenses and providing civil and criminal penalties; and declaring an emergency.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Sections 1 and 4, Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(41), Vernon's Texas Civil Statutes), are amended to read as follows:

Section 1. There is hereby created an agency of the State of Texas which shall be designated as the Texas Amusement Machine ~~Vending~~ Commission; said Commission shall consist of three (3) ~~six (6)~~ members to be appointed by the Governor with the advice and consent of the Senate and three (3) ex officio members, who shall have the right to vote, to be the Director of the Department of Public Safety, or his nominee; the Commissioner of Consumer Credit, or his nominee; and the Attorney General, or his nominee. ~~None of [Of] the three [six] appointed members, [not more than three (3)] shall be or have ever been an "owner" or "operator" of any "coin-operated" machine as those terms are defined in Chapter 13, Title 122A, Taxation--General, Revised Civil Statutes of Texas, as amended. Members of the Commission [In making the initial appointments, the Governor shall designate two (2) members for a term expiring January 31, 1973; two (2) members for a term expiring January 31, 1975; and two (2) members for a term expiring January 31, 1977. Thereafter their successors]~~ shall serve for six (6) years. Appointees shall hold office until their successors are appointed and qualified.

Section 4. All members of the Commission shall be compensated ~~for attendance at meetings~~ in an amount of Thirty-five Dollars (\$35.00) per day for each day they are actually engaged in performing their duties ~~whether or not in attendance at a meeting~~; provided, however, they shall not draw compensation for more than sixty



(60) days in any one fiscal year. In addition to the per diem provided for herein, members of the Commission shall be reimbursed for their actual and necessary traveling expenses in the performance of their duties.

Sec. 2. Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 4413(41), Vernon's Texas Civil Statutes), is amended by adding Section 8 to read as follows:

Section 8. (a) The Commission may create an advisory committee to assist it in the execution of its duties under this Act.

(b) If the Commission creates an advisory committee, it may appoint no more than six persons to the committee. A person is qualified to be appointed to the advisory committee if he engages in any aspect of the coin-operated machine industry.

(c) A member of the advisory committee receives no salary. Each member is entitled to be reimbursed for his actual and necessary traveling and per diem expenses incurred in serving on the committee.

Sec. 3. Chapter 13, Title 122A, Taxation--General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

#### **Chapter 13. TAX ON COIN-OPERATED MACHINES.**

Article 13.01. DEFINITIONS. The following words, terms and phrases as used in this Chapter are defined as follows:

(1) The term "owner" means any person, individual, firm, company, association or corporation owning ~~or having the care, control, management or possession of~~ any "coin-operated machine" in this State.

(2) The term "operator" means any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited or displayed, in a place of business other than his own ~~in his or its place of business or upon premises under his or its control~~, any "coin-operated machine" in this State.

(3) The term "coin-operated machine" means every machine or device of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, "music coin-operated machines" and "skill or pleasure coin-operated machines" as those terms are hereinafter defined, shall be included in such terms.

(4) The term "music coin-operated machine" means every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending music and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: phonographs, pianos, graphophones, ~~radios~~ and all other coin-operated machines which dispense or vend music.

(5) The term "skill or pleasure coin-operated machines" means every coin-operated machine of any kind or character whatsoever, when such machine or machines dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined in this Chapter. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford skill or pleasure. Provided that every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered as skill or pleasure machines and taxed at the higher rate fixed for such machines.

(6) The term "service coin-operated machines" means every pay toilet, pay telephone and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

(7) The term "commission" means the Texas Amusement Machine Commission.

Article 13.02. AMOUNT OF TAX.

(1) Every "owner", save an owner holding an import license and holding coin-operated machines solely for re-sale, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 13.01, except as are exempt herein, an annual occupation tax of \$15.00.

(2) Provided that the first money taken from each coin-operated machine each calendar year shall be paid to the owner to reimburse the payment of that year's annual occupation tax levied above and those levied by any city or county. No owner shall agree or contract or offer to agree to contract to waive this reimbursement either directly or indirectly. No owner shall agree or contract with a bailee or lessee of a coin-operated machine to compensate said bailee or lessee in excess of fifty percent (50%) of the gross receipts of such machine after the above reimbursement has been made. In addition to all other penalties provided by law the commission [Comptroller] shall revoke any license held under Article 13.17 by any person who violates this Subsection.

(3) The commission may provide a duplicate permit if a valid permit has been lost, stolen, or destroyed. The fee for a duplicate permit is \$2.

Article 13.03. EXEMPTIONS FROM TAX. Gas meters, pay telephones, pay toilets, food vending machines, confection vending machines, beverage vending machines, merchandise vending machines, and cigarette vending machines which are now subject to an occupation or gross receipts tax, stamp vending machines, and "service coin-operated machines," as that term is defined, are expressly exempt from the tax levied herein, and the other provisions of this Chapter.

Article 13.04. PUBLIC NUISANCE. Every coin-operated machine subject to the payment of the tax levied herein, and upon which the said tax has not been paid as provided herein, is hereby declared to be a public nuisance, and may be seized and destroyed by the commission, its [Comptroller of Public Accounts, his] agents, or any law enforcing agency of this State as in such cases made and provided by law for the seizure and destruction of common nuisances.

Article 13.05. INJUNCTION; VENUE; PAYMENT OF TAX AS CONDITION PRECEDENT; RECORDS AND REPORTS.

(1) Any person who shall invoke the power and remedies of injunction against the commission [Comptroller of Public Accounts of the State of Texas] to restrain or enjoin it [him] from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(2) Before any restraining order or injunction shall be granted against the commission [Comptroller of Public Accounts of the State of Texas] to restrain or enjoin the collection of the taxes levied herein the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees, and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General and the commission [Comptroller of Public Accounts of this State] or their authorized representatives, a complete, itemized record maintained in accordance with generally accepted auditing and accounting practices [well-bound book record], showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such [book] record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every machine possessed or operated within the

State. Provided further that said applicant shall make and file with the commission ~~[Comptroller of Public Accounts]~~ daily, excluding Sundays and legal holidays, a report, on a form to be prescribed by the commission ~~[said Comptroller]~~, showing the ownership, make and kind, and the serial number of every such machine operated by said applicant within this State. Said report shall also show the county, city, and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The commission ~~[Comptroller of Public Accounts of this State]~~, or its ~~[his]~~ authorized representatives, may file in the court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Chapter or has violated the same. Upon the filing of said affidavit, the clerk of said court shall issue notice to the said applicant to appear before such court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed, all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Chapter shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

(3) No person, firm, association or corporation required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the commission ~~[Comptroller of Public Accounts]~~, to restrain the collection of the tax levied herein except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the commission ~~[Comptroller of Public Accounts]~~ all taxes, fees, and assessments due by him under the provisions of this Chapter and said restraining order or injunction shall in no way interfere with or impair the power of the commission ~~[Comptroller of Public Accounts of this State]~~ to collect and enforce the payment of the taxes, fees, and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as hereinbefore provided.

Article 13.06. ATTACHMENT OF ~~[LICENSE OR]~~ PERMIT TO MACHINE. Provided further, the ~~[license or]~~ permit issued by the commission ~~[Comptroller]~~ to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same ~~[or posted in a conspicuous place at or near the machine so as to be easily seen by the public]~~.

Article 13.07. RULES AND REGULATIONS; REVOCATION ~~[FORFEITURES]~~ OF LICENSES OR PERMITS.

(1) The commission may ~~[Comptroller of Public Accounts shall have the authority to]~~ make and publish rules and regulations, not inconsistent with this Chapter or the other laws or the Constitution of this State or of the United States, for the

enforcement of the provisions of this Chapter and the collection of the revenues hereunder.

(2) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Chapter or any rule and regulation promulgated hereunder, the commission shall investigate the violation, make findings of fact, and may recommend to the Attorney General that a license, permit, or registration certificate be revoked ~~[Comptroller of Public Accounts shall have the power and authority to forfeit all licenses or permits issued to any of the foregoing persons by giving written notice, stating the reason justifying such forfeiture and the same shall be forfeited five (5) days from date of such notice. No new licenses or permits shall be issued within a period of one (1) year to anyone whose licenses or permits have been forfeited, except at the discretion of the Comptroller of Public Accounts].~~ If the licenses, ~~[or]~~ permits, or registration certificate of any individual, company, corporation, or association owning, operating or displaying coin-operated machines in this State is ~~revoked~~ ~~[forfeited]~~, such individual, company, corporation, or association shall not operate, display or permit to be operated or displayed such machines until the licenses, ~~[or]~~ permits, or registration certificates are reinstated or until new licenses, ~~[or]~~ permits, or registration certificates are granted.

Article 13.08. ~~[LICENSES OR] PERMITS; COLLECTION OF TAX; PAYMENT OF EXPENSES.~~ The commission shall ~~[Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to]~~ collect, and issue ~~[licenses or]~~ permits for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Chapter. Provided that Twenty-five Thousand Dollars (\$25,000) of the funds derived under the provisions of this Chapter shall be deposited annually to the credit of the General Revenue Fund as payment for the services of the commission ~~[Comptroller]~~ and other State agencies in the enforcement of this Chapter.

Article 13.09. EXISTING LAWS; VIOLATIONS NOT AUTHORIZED. Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or the Constitution of this State.

Article 13.10. ~~RECORDS; FORFEITURE OF LICENSES~~. Every "owner" of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and the commission ~~[Comptroller of Public Accounts of this State]~~, or their authorized representatives, a complete, itemized record maintained in accordance with accepted auditing and accounting practices ~~[book record in a well bound book]~~ of each and every such machine purchased, received, possessed, handled, exhibited or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for permit and shall include the following information: The kind of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses. Such information shall be shown completely and separately for each and every machine. ~~[The Comptroller of Public Accounts shall be authorized and it shall be his duty to forfeit all licenses, permits of every owner failing to keep such records or failing to present such records for inspection at any time upon demand by said Comptroller of Public Accounts or his authorized representatives.]~~

Article 13.11. VIOLATIONS OF ACT; PENALTY; SUIT TO RECOVER PENALTY. If any "owner" of a coin-operated machine within this State shall (a) ~~[deliver to or permit to be delivered to any "operator" a coin-operated machine without a valid license or permit issued by the Comptroller of Public Accounts of this State]~~

~~being attached thereto, or (b)]~~ permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said ~~[license or]~~ permit being attached thereto, or ~~(b)(e)]~~ if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a ~~[license or]~~ permit issued by the commission ~~[Comptroller of Public Accounts of this State]~~ showing the payment of the tax due thereon for the current year, or ~~(c)(d)]~~ if any person required to keep records of coin-operated machines in this State shall falsify such records, or ~~(d)(e)]~~ shall fail to keep such records, or ~~(e)(f)]~~ shall refuse or fail to present such records for inspection upon the demand of the commission ~~[Comptroller of Public Accounts]~~ or its ~~[his]~~ authorized representatives, or ~~(f)(g)]~~ if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or ~~(g)(h)]~~ mislead the commission ~~[Comptroller of Public Accounts]~~ or its ~~[his]~~ authorized representatives in the enforcement of this Chapter, or ~~(h)(i)]~~ if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or ~~(i)(j)]~~ if any person in this State shall fail to comply with the rules and regulations promulgated by the commission ~~[Comptroller of Public Accounts]~~, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Five Dollars (\$5) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas, or any court having jurisdiction.

Article 13.12. OFFENSES; PENALTY. (a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid ~~[license or]~~ permit issued by the commission ~~[Comptroller of Public Accounts of this State]~~ showing the payment of the tax due thereon for the current year, or (b) if any person required to keep records of coin-operated machines in this State shall falsify such records or (c) shall fail to keep such records, or (d) shall refuse or fail to present such records for inspection upon the demand of the commission ~~[Comptroller of Public Accounts]~~ or its ~~[his]~~ authorized representatives, or (e) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (f) mislead the commission ~~[Comptroller of Public Accounts]~~ or its ~~[his]~~ authorized representatives in the enforcement of this Chapter, or (g) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (h) if any person in this State shall fail to comply with the rules and regulations promulgated by the commission ~~[Comptroller of Public Accounts]~~, or violate the same, he shall be guilty of a Class C misdemeanor ~~[and upon conviction shall be punished by a fine of not less than Five Dollars (\$5) nor more than Two Hundred Dollars (\$200)].~~

Article 13.13. SEALING MACHINE TO PREVENT OPERATIONS; PENALTY FOR BREAKING SEAL. Provided that the commission ~~[Comptroller of Public Accounts]~~ or its ~~[his]~~ authorized representatives, may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. Whoever shall break the seal affixed by said commission ~~[Comptroller]~~ or its ~~[his]~~ authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken or shall remove any coin-operated machine from location after the same has been sealed by the commission ~~[Comptroller]~~ shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Article 13.12 of this Chapter. The commission ~~[Comptroller]~~ shall charge a fee of \$25.00 for the release of any coin-operated machine sealed for nonpayment of tax.

Article 13.14. APPORTIONMENT OF TAX; TAX LEVY BY COUNTIES AND CITIES. Except as herein provided in this Chapter, one-fourth (1/4) of the net revenue derived from this Chapter shall be credited to the Available School Fund of the State of Texas and three-fourths (3/4) of the net revenue derived from this Chapter shall be credited to the Clearance Fund, established by Article XX of House Bill No. 8, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941. Provided that all

counties and cities within this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one half (1/2) of the State tax levied herein.

Article 13.15. SEALING OF MACHINES BY CITY OR COUNTY. Any city or county levying an occupation tax on coin-operated machines is hereby authorized to seal any such machine on which the tax has not been paid. Any city or county levying an occupation tax on coin-operated machines is hereby authorized to charge a fee not exceeding Five Dollars (\$5) for the release of any machine sealed as provided herein for nonpayment of tax. Whoever shall break the seal affixed in the name of any city or county or exhibit, display or remove from location any machine on which the seal has been broken shall be guilty of a Class C misdemeanor ~~and upon conviction shall be punished by a fine not exceeding Two Hundred Dollars (\$200).~~

Article 13.16. TAXES, PENALTIES AND INTEREST UNDER RE-ENACTED OR REPEALED STATUTES; OFFENSES AND PENALTIES UNDER PRIOR LAWS. All occupation taxes, penalties and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Chapter before the effective date of this Chapter shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Chapter are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Chapter shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

Article 13.17. REGULATION OF MUSIC AND SKILL OR PLEASURE COIN-OPERATED MACHINES.

Section 1. Purpose. The purpose of this Article is to provide comprehensive regulation of music and skill or pleasure coin-operated machines ~~and businesses dealing in these machines, and to prevent persons in these businesses from having certain concurrent financial interests in, or unauthorized financial dealings with, certain alcoholic beverage businesses.~~

Section 1(a). Construction. ~~[Notwithstanding any language herein contained to the contrary, no provision herein shall be construed to require a fee for a general business license for an individual who, on the effective date of this Act, only owns a single place of business and owns a music or skill or pleasure coin-operated machine in such place of business.]~~

Notwithstanding any language in this Chapter or any other Chapter to the contrary, the term "music or skill or pleasure coin-operated machine" shall include coin-operated billiard and pool games and shall exclude coin-operated amusement machines designed exclusively for children.

Section 2. Definitions. In this Article, unless the context requires a different definition,

(1) "person" includes any natural person, association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them;

(2) "financial interest" includes any legal or equitable interest, and specifically includes the ownership of shares or bonds of a corporation.

Section 3. Administration. The commission ~~[Comptroller]~~ shall administer this Article. ~~The commission [He or the Attorney General]~~ may initiate investigations, hearings, and take other necessary measures to ensure compliance with the provisions of this Article or to determine whether violations may exist. If the commission finds evidence of a violation, it shall notify the Attorney General who may institute a civil action in the name of the commission against a person who violates a provision of this Article. ~~[The Comptroller shall institute civil proceedings through the Attorney~~

~~General in the name of the State against violators.]~~ If the commission ~~[Comptroller]~~ finds evidence of violation of penal provisions, it ~~[he]~~ shall present it to the District or County Attorney of the county wherein such violation occurred.

Section 4. Powers of Commission ~~[Comptroller]~~. In addition to its other authority, the commission ~~[his existing powers, the Comptroller]~~ may, for the purpose of administering this Article,

(1) prescribe all necessary regulations and rules to ensure that all persons' affected by this Article are afforded due process of law;

(2) hold hearings and prescribe rules of procedure and evidence for the conduct of hearings;

(3) ~~issue, suspend, or cancel~~ licenses;

(4) prescribe the procedure for registration of music and skill or pleasure coin-operated machines and the method of securely attaching registration stamps;

(5) disclose confidential information to appropriate officials; and

(6) prescribe the form and content of

(a) license applications;

(b) ~~registration [license]~~ certificates;

(c) ~~tax permits [registration stamps];~~

(d) reports concerning the location of coin-operated machines; and

(e) reports of the consideration of each party to contracts concerning the placement of coin-operated machines in establishments owned by a person other than the licensee ~~[where alcoholic beverages are sold or served for on-premises consumption].~~

Section 5. Delegation of Authority. The commission ~~[Comptroller]~~ may delegate to an authorized representative any authority given it ~~[him]~~ by this Article, including the conduct of investigations and the holding of hearings.

Section 6. Agency Cooperation. All state agencies are directed to cooperate with the commission ~~[Comptroller]~~ in its ~~[his]~~ investigatory functions under this Article, and shall provide it ~~[him]~~ access to their relevant records and reports including those declared or designated as confidential by other law.

Section 7. Confidentiality; Penalty for Disclosure.

(1) All information derived from books, records, reports, and applications required to be made available under this Article to the commission ~~[Comptroller]~~ or the Attorney General is confidential unless specifically designated a public record, and may be used only for the purpose of enforcing the provisions of this Article.

(2) Any employee of the commission ~~[Comptroller]~~ or Attorney General who discloses confidential information obtained from the administration of this Article to an unauthorized person is guilty of a Class C misdemeanor ~~[and upon conviction is punishable by a fine of not more than \$1,000].~~

Section 8. License or Registration Certificate Required; Penalty; Exceptions.

(1) No person shall engage in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, maintain, service, transport within the state, store, or import, a music coin-operated machine or a skill or pleasure coin-operated machine without a license or registration certificate issued under this Article.

(2) A person who knowingly violates this Section is guilty of a Class B misdemeanor ~~[and upon conviction is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000)].~~

(3) No license is required for a corporation or association organized and operated exclusively for religious, charitable, educational, or benevolent purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, to own, or lease or rent from another, a music or skill or pleasure coin-operated machine for the corporation's or association's exclusive use and in furtherance of the purposes for which it is established. No tax may be assessed against any of these entities if otherwise prohibited by law.

(4) No license or tax is required for an individual to own a music or skill or pleasure coin-operated machine for personal use and amusement in his private residence.

(5) No license is required for any person subject to regulation by the Railroad Commission of Texas to transport or store in the due course of business a music or skill or pleasure coin-operated machine not owned by him.

(6) A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation or subterfuge is guilty of a third-degree felony ~~and upon conviction is punishable by imprisonment in the penitentiary for not less than two nor more than five years, or by a fine of not more than \$10,000.00, or by both.~~

Section 9. Nature of License. A license issued under this Article

(1) is an annual license which expires on December 31st of each year, unless it expires as provided in subdivision (5) of this Section or is suspended or cancelled earlier;

(2) is effective for a single ~~place of~~ business entity;

(3) vests no property or right in the licensee except to conduct the licensed business during the period the license is in effect;

(4) is nontransferable, nonassignable, and not subject to execution; and

(5) expires upon the death of an individual licensee, or upon the dissolution of any other licensee.

Section 10. Temporary Extension of License. When a license issued under this Article expires because of the death of an individual licensee, or the dissolution of any other licensee, or upon conditions involving receivership or bankruptcy, the commission ~~Comptroller~~, except for good cause shown, shall permit the successor in interest to operate the business under the same license through December 31st of the year. The commission ~~Comptroller~~ shall give this permission in writing upon certification by the County Judge of the county in which the business is located that the person requesting the extension is the successor in interest. The extended license is subject to suspension or cancellation as is any other license issued under this Article. An original license application is necessary upon expiration of the extension.

Section 11. Display; Penalty.

(1) A person licensed to do business under this Article shall prominently display his current license certificate at his place of business at all times.

(2) A person who violates this Section is guilty of a Class C misdemeanor ~~and upon conviction is punishable by a fine of not more than \$1,000.00.~~

Section 12. Application for License.

(1) An application for a license to do business under this Article shall contain a complete statement regarding the ownership of the business to be licensed. This statement of ownership must specify

(a) the nature of the business entity to be licensed;

(b) the name and residence address of every person who has a financial interest in the business, and the nature, type, and extent of that financial interest, except corporate applicants may omit any shareholder holding less than 10% of the corporate shares.

(2) The application shall designate a single individual who is responsible for keeping a record and reporting to the commission ~~Comptroller~~ the following information regarding each music or skill or pleasure coin-operated machine owned, possessed, or controlled by the licensee:

(a) the make, type, and serial number of machine;

(b) the date put in operation;

(c) the dates of the first, and the most recent registration of the machine;

(d) the specific location of each machine;

(e) any change in ownership of a machine.

(3) The application shall be accompanied by a sworn written statement executed by the individual designated to maintain the records and make reports that he is aware



of and accepts this responsibility.

(4) The individual designated to maintain the records and to make reports must have the following relationship to the business to be licensed:

- (a) the owner of a sole proprietorship;
- (b) a partner of the partnership;
- (c) an officer of the corporation;
- (d) a trustee of the trust;
- (e) a receiver of the receivership; or
- (f) an officer or principal member of the association, joint venture, organization, or other entity not specified.

(5) The commission ~~[Comptroller]~~ may require any other pertinent information to be included in the application.

(6) The application must contain a statement that the information contained in it is true and complete, and this statement shall be made under oath.

(7) The statement of ownership contained in the application becomes a public record upon issuance of a license. Other information in the application is confidential.

(8) The application shall designate an office in this state where the applicant proposes to maintain the records which he is required to maintain by this Article, otherwise by law, or by rule or regulation of the commission.

Section 13. Fee with Application. The application must be accompanied by the annual license fee in the form of a cashier's check or money order payable to the commission ~~[State Comptroller]~~.

Section 14. Records and Reports; Offenses; Penalty.

(1) The licensee ~~[person designated in the license application to do so]~~ shall keep records and make reports to the commission ~~[Comptroller]~~ of the information specified in Subsection (2) of Section 12 of this Article at intervals specified by the commission ~~[Comptroller]~~, and upon demand by the commission ~~[Comptroller]~~. He shall immediately notify the commission ~~[Comptroller]~~ in writing of any change in ownership of the licensed business.

(2) It is an offense for a person to willfully fail or refuse to make reports ~~[to the Comptroller as]~~ required by this Section.

(3) It is an offense for a person to willfully withhold or conceal any information required to be reported by this Section from a person who has the duty to make the report.

(4) A person who violates this Section is guilty of a Class B misdemeanor ~~[and upon conviction is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00)].~~

Section 15. Types of Licenses.

(1) A person who wishes to engage in certain business dealing with music coin-operated machines or skill or pleasure coin-operated machines shall apply for a general business license, or an import license, or a repair license, or any combination of these ~~[or both]~~.

(2) A general business licensee may engage in business to manufacture, own, buy, sell, rent, lease, trade, repair, maintain, service, transport or exhibit within the state, and store music and skill or pleasure coin-operated machines.

(3) An import licensee may engage in business to import, transport, own, buy, repair, sell, and deliver, music and skill or pleasure coin-operated machines, for sale and delivery within this State.

(4) A repair licensee may engage in the business of repairing, maintaining, servicing, transporting, or storing music, skill, or pleasure coin-operated machines.

Section 16. Fees.

(1) The annual license fee for ~~[either an import or]~~ a general business license shall be as follows:

For an applicant with 50 or fewer machines, \$200;

For an applicant with 51 - 200 machines, \$400;

For an applicant with over 200 machines, \$500. ~~[Based on the number of music and the number of skill and pleasure, coin-operated machines in which each licensee shall have any interest as set forth in Section 8 of this article; and said annual fee shall be Ten Dollars (\$10.00) for each such coin-operated machine, but in no event shall such fee be less than Fifty Dollars (\$50.00) nor more than Three Thousand Dollars (\$3,000.00). This fee shall be in addition to the tax levied by Article 13.02.]~~

(2) ~~The annual license fee for an import license is \$500. [After issuance of a license to a licensee, the Texas Vending Commission may not refund any portion of a license fee.]~~

(3) The annual license fee for a repair license is \$50.

(4) The commission may not refund any part of a license fee after the license is issued. In the event a license is not issued, the commission may retain \$25 to cover administrative costs, and may refund the balance.

(5) Cities and counties within this state may charge a license fee in an amount not to exceed one-half of the license fee required herein.

#### Section 16A. Exemptions.

(1) A person who owns or exhibits coin-operated machines is exempt from the licensing and record keeping requirements imposed by this Article if:

(a) he operates or exhibits his machines exclusively on premises occupied by him, and in connection with his business; and

(b) he owns no machine subject to the occupation tax imposed by this chapter located on the business premises of another person; and

(c) he has no financial interest, direct or indirect, in the coin-operated music, skill, or pleasure machine industry, except for the interest he owns in his machines used exclusively on premises occupied by him.

(2) Machines which are exhibited by a nonlicensed owner exempt under this section must be registered with the commission. The owner shall obtain a registration certificate each year. The registration certificate shall show the name and address of the location of each machine and shall certify that the machine has a valid tax stamp affixed to it. The owner shall obtain his registration certificate by filing sworn application.

(3) Each time the location of a machine is changed, the owner of the registration certificate shall notify the commission of the change by filing an amendment to the registration certificate within 10 days of the change.

(4) The fee for registration of machines affected by this section is \$10 for the business entity in which the owner's machines are exhibited.

#### Section 17. Removal of Stamp Prohibited; Penalty.

(1) No person other than the commission ~~[Comptroller]~~ may intentionally remove a current registration stamp from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a Class C misdemeanor ~~[and upon conviction is punishable by a fine of not more than \$1,000.00].~~

"Section 18. License as Consent to Entry. Acceptance of a license issued under this Article constitutes consent by the licensee that the commission ~~[Comptroller]~~ or any peace officer may freely enter upon the licensed business premises during normal business hours for the purpose of ensuring compliance with this Article.

#### Section 19. Mandatory Grounds for Refusal, Suspension, or Revocation [Cancellation] of License.

(1) The commission ~~[Comptroller]~~ shall not issue a general business or import license for a business under this Article if it ~~[he]~~ finds that the applicant

(a) has been finally convicted of a felony in a court of competent jurisdiction during the five ~~ten~~ years preceding the filing of the application; or

(b) has been on probation or parole as a result of a felony conviction during the two ~~five~~ years preceding the filing of the application.

~~(2) The Comptroller may not renew a license for a business under this Article if he finds that during the time the previous license was held the licensee~~

~~(a) has been finally convicted of a felony in a court of competent jurisdiction; or~~

~~(b) has been placed on probation as a result of a felony prosecution.]~~

(2) ~~[(3)]~~ The commission ~~[Comptroller]~~ may not issue or renew a license for a business under this Article, and shall suspend for any period of time, or cancel a license, if it ~~[he]~~ finds that the applicant or licensee is indebted to the State by judgment for any fees, costs, penalties, or delinquent taxes.

~~[(4) The Texas Vending Commission shall not renew a license for a business under this article if it finds that a partner or major stockholder, or any one employed by a licensee has been convicted of a felony in a court of competent jurisdiction, regardless of whether the sentence was probated or served, within five (5) years from the date of such person's first employment or association with the business, or thereafter.]~~

(3) The commission may not issue or renew a license for a business pursuant to the terms of this Article if the applicant does not designate and maintain an office in this state or if the applicant does not permit inspection by the commission of all records which the applicant or licensee is required to maintain.

(4) The commission shall issue an original license to an applicant who complies with the requirements of Subsections (1) and (2) of this Section.

Section 20. Discretionary Grounds for Refusal, Suspension, or Revocation ~~[Cancellation]~~ of License.

(1) A license issued pursuant to the authority of this Article may be revoked, or renewal refused, if:

(a) the licensee has intentionally violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee has intentionally failed to answer a question, or intentionally made a false statement in, or in connection with, his application or renewal;

(c) the licensee extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee uses coercion to accomplish a purpose or to engage in conduct regulated by the commission;

(e) a contract or agreement between the licensee and a location owner contains a restriction, of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article;

~~[The Comptroller may refuse to issue or renew a license, and may suspend for any period or cancel a license if he finds that~~

~~(1) the applicant or licensee has intentionally violated any provision of, or any regulation authorized by this Article during~~

~~(a) the two years preceding the date of the application for an initial license; or~~

~~(b) the period the current license was held;~~

~~(2) the applicant or licensee has intentionally failed to answer any question or has made a false statement in, or in connection with, his application or renewal;~~

~~(3) the manner in which the applicant proposes to, or the licensee does, conduct his business is of such a nature which, based on the general welfare, health, peace, and safety of the people, warrants a refusal, suspension, or cancellation of the license;]~~

~~(1) [(4) that] issuance of, or failure to suspend or cancel, the license would be contrary to the intent and purpose of this Article.~~

(2) The commission shall conduct a hearing to ascertain whether a licensee has engaged in conduct which would be grounds for revocation. The commission shall make findings of fact, and, if the commission determines that grounds for revocation exist, the commission shall file those findings with the Attorney General. The Attorney General upon receipt of the record may institute an action to impose the penalties

provided by this Act in Article 13.11 or to revoke the license. The action shall be instituted in a district court in the county of the licensee's place of business.

Section 21. Applicant and Licensee Defined. In Sections 19 and 20 of this Article, unless the context requires a different definition, the words "applicant" and "licensee" include each partner of a partnership; each trustee of a trust; each receiver of a receivership; each officer and director of a corporation; and each shareholder owning not less than 25 percent of the outstanding shares; any individual applicant or licensee; each officer, director, and member of any association or other entity not specified and, when applicable in context, the business entity itself.

Section 22. Notice and Hearing.

(1) An applicant or licensee is entitled to at least ten days' notice and a hearing in the following instances:

- (a) after his original application for a license has been refused;
- (b) before his application for a renewal of a license may be refused;
- (c) before the commission may file a recommendation of revocation, denial, or other sanction, with the Attorney General ~~[his license may be suspended or cancelled].~~

(2) Notice of hearing for refusal, cancellation, or suspension may be served personally by the ~~commission~~ ~~[comptroller]~~ or its ~~[his]~~ authorized representative or sent by United States certified mail addressed to the applicant or licensee at his last known address. In the event that notice cannot be effected by either of these methods after due diligence, the ~~commission~~ ~~[Comptroller]~~ may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence in the conduct of his affairs. The commission shall publish notice of a hearing in a newspaper of general circulation in the area in which the licensee conducts his business activities.

Section 23. Notice of ~~Commission's~~ ~~[Comptroller's]~~ Order.

(1) Any order refusing an application or renewal application shall state the reasons for refusal, and a copy of the order shall be delivered immediately to the applicant or licensee.

(2) An order recommending cancellation or suspension of ~~[cancelling or suspending]~~ a license shall state the reasons for the cancellation or suspension, and a copy of the order shall be delivered immediately to the licensee.

(3) Delivery of the commission's recommendation of ~~[Comptroller's order of]~~ refusal, cancellation, or suspension may be given by

- (a) personal service upon an individual applicant or licensee;
- (b) personal service upon any officer or director or partner or trustee or receiver, as the case may be;
- (c) personal service upon the person in charge of the business premises, temporarily or otherwise, of the applicant or licensee;
- (d) sending such notice by United States certified mail addressed to the business premises of the applicant or licensee;
- (e) posting notice upon the outside door of the business premises of the applicant or licensee.

(4) Notice is complete upon performance of any of the above. ~~[Cancellation or suspension takes effect upon service.]~~

Section 24. Review of Commission Action.

(1) Appeal by an affected person from all actions of the commission other than a recommendation to the Attorney General for the revocation of a license as provided in Article 13.07(2) and Article 13.17, Section 20(2) of this Act or from denial of requested action shall be to a District Court of the county of the licensee's place of business. The review shall be conducted by the court and shall be confined to the record. If the record is found to be incomplete, the court may order that additional evidence be taken before the commission. The commission may modify its findings and decision or order by reason of the additional evidence and shall file such evidence and any modifications, new findings, decisions, or orders with the court. In cases of alleged irregularities in procedure before the commission, not shown in the record, proof

thereon may be taken in the court.

(2) The court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact committed to commission discretion. The court may affirm the decision of the commission in whole or in part; the court shall reverse or remand the case for further proceeding if substantial rights of the appellant have been prejudiced because the commission's findings, inferences, conclusion, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the commission;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) not reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

~~[Section 24. Appeal from Comptroller's Order. A person who is refused a license, or whose license has been suspended or cancelled, may appeal the Comptroller's order to the District Court by filing a petition in the court within 30 days after the effective date of the order. Venue is in Travis County, Texas.]~~

Section 25. Appeals. Appeal from any final judgment of the District Court may be taken by any party, including the commission, in the manner provided for in civil actions generally; provided that the commission may not appeal a decision on motion of the Attorney General to revoke a license.

~~[Section 25. In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provision of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, save for Section 2 of this Act, and further specifically declares that this Act, save for Section 2 of this Act, would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, save for Section 2 of this Act, and in such event this entire Act, save for Section 2, shall be null, void and of no force and effect.]~~

~~Section 26. Unauthorized Contracts Prohibited; Penalty.~~

~~(1) No person licensed under this Article may place or operate a music or skill or pleasure coin operated machine in an establishment where alcoholic beverages are sold or served for on premises consumption except by written contract. The contract must include all provisions of the agreement between the parties and a statement sworn to by both parties that there are no other understandings or agreements between the parties.~~

~~(2) The licensee shall~~

~~(a) promptly file a copy of the contract with the Comptroller, unless on terms previously filed with the Comptroller;~~

~~(b) furnish a copy to the manager of the establishment where the machine is placed; and~~

~~(e) retain a copy at his principal place of business.~~

~~(3) The manager of the establishment shall retain his copy of the contract on his premises.~~

~~(4) A person who knowingly violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.00.]~~

Section 26 ~~[Section 27].~~ Prohibited Financial Relationships; Credit Transactions; Penalty.

~~(1) [It shall be unlawful for a person who has a financial interest in a business required to be licensed by this Article to knowingly have a financial interest in a business engaged in selling or serving alcoholic beverages for on-premises consumption unless otherwise permitted in this Article. No bona fide financial interest or commitment in existence prior to September 1, 1969, shall be deemed a violation of this Article, but no such interest or commitment may be renewed or altered after September 1, 1969, without the written approval of the Comptroller, provided that this prohibition shall not apply if the business engaged in selling or serving alcoholic beverages be a corporation whose securities are registered under the laws of the United States or the State of Texas.~~

~~(2) Nothing in this Article shall be construed to prohibit a person who has a financial interest in a business required to be licensed by this Article from having any interest in real property on which is located a business engaged in selling or serving alcoholic beverages for on-premises consumption.~~

~~(3) It shall be unlawful for a person who has a financial interest in a business required to be licensed by this Article or for any agent on behalf of such person to contract either orally or in writing to convey an interest in real property whether by lease, sub-lease or otherwise if such contract contains a provision or provisions in any way limiting the other party's right to secure music or skill or pleasure coin-operated machines from any source.~~

~~(2) [(4)] It shall be unlawful for a person to secure or attempt to secure a contract of lease or bailment of a music or skill or pleasure coin-operated machine by coercion, threats or intimidation, through the commission of, or threat to commit, any act prohibited by the penal laws of this State or the Consumer Credit Code of this State.~~

~~(3) [(5)] A person who violates Subsection (1) [(2), or (4)] of this Section shall be guilty of a third-degree felony [and upon conviction is punishable by imprisonment in the penitentiary for not less than two (2) years nor more than five (5) years or by a fine of not more than \$10,000.00 or by both].~~

~~(4) [(6)] Any person required to be licensed by this Article may make an extension of credit or lend the licensee's credit to a lessee or a bailee of a music or skill or pleasure coin-operated machine, or on behalf of either for business or commercial purposes when the following terms and conditions have been met and the following duties and obligations satisfactorily assumed and discharged.~~

~~(a) Before making the first such extension of credit, the licensee under this Article shall first notify the [Comptroller and] the Consumer Credit Commissioner of the State of Texas of the intent of such licensee to make extensions of credit in the conduct of the licensee's business.~~

~~(b) The consideration for such extensions of credit shall not be less than one-half percent or exceed interest or its equivalent at the rate of one and one-half percent (1 1/2%) per month, computed according to the United States Rule. Consideration excludes court costs and attorney's fees as determined by the court, but includes the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing an extension of credit or forbearance of money, credit, goods, or things in action, or any other service rendered. If in any transaction any consideration in excess of that provided above is charged or~~

received by the licensee directly, or indirectly, except as the result of an accidental and bona fide error corrected upon discovery, the unpaid balance of the indebtedness created by such transaction shall be void, and that portion of any indebtedness so created which has been paid to the licensee, either the principal or its equivalent or interest or its equivalent, or both, shall be repaid by the licensee to the person.

(c) No extension of credit may be made by any person required to be licensed by this Article unless it is evidenced by a written agreement signed by the parties thereto specifying both the amount of credit extended, the consideration for such extension of credit, and the terms according to which such extension of credit is to be repaid.

(d) Each licensee making extensions of credit authorized by this Section shall keep in this State books and records, which shall be consistent with accepted accounting and auditing practices, relating to all such extensions of credit authorized by this Section sufficient to enable any competent person to determine whether or not such licensee is complying with this Section. Such records shall be preserved for four (4) years from the date of the transaction to which they relate, or two (2) years from the date of the final entry made with regard to such transaction, whichever is later.

(e) At such times as the Consumer Credit Commissioner may deem necessary, or at the request of the commission ~~Comptroller~~ or the Attorney General, the Consumer Credit Commissioner, or his duly authorized representative, may make an examination of the place of business of each licensee hereunder, and may inquire into and examine the transactions, books, accounts, papers, correspondence, or records of such licensee insofar as they pertain to the extensions of credit regulated by this Section. In the course of such examinations, the Consumer Credit Commissioner or his duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Consumer Credit Commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Commissioner is authorized or required by this Section to consider, investigate or secure information. Any licensee who shall fail or refuse to let the Consumer Credit Commissioner or his duly authorized representative examine or make copies of such books or other relative documents shall thereby be deemed in violation of this Section. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Consumer Credit Commissioner an amount assessed by the Commissioner to cover the direct and indirect costs of such examination, including a proportionate share of general administrative expenses, which amount shall be retained and held by the Consumer Credit Commissioner, and no part of such fee shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Consumer Credit Commissioner in conducting such examinations shall be paid only from such fees, and no such expense shall ever be charged against the funds of this State.

(f) The Consumer Credit Commissioner may make regulations necessary for the enforcement of this Section and consistent with all its provisions. Before making a regulation the Consumer Credit Commissioner shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each regulation shall be entered in a permanent record book which shall be a public record and be kept in the Consumer Credit Commissioner's office. A copy of every regulation shall be mailed to each licensee, and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof,

the Consumer Credit Commissioner shall furnish such person a certified copy of any such regulation.

~~[(7) Any person required to be licensed by this Article who co-signs, guarantees, or becomes surety for an extension of credit or loan of anything of value to any person engaged in selling or serving alcoholic beverages for on-premises consumption, or to any person who he has reason to believe is about to be engaged in selling or serving alcoholic beverages for on-premises consumption, shall file with the Comptroller and the Consumer Credit Commissioner, a copy of all documents related to the transaction.]~~

~~(4) [(8)] Any person who violates Subsection (3) [(5), (6), or (7)] of this Section is guilty of a Class C misdemeanor [and upon conviction is punishable by a fine of not less than \$200.00 nor more than \$1,000.00].~~

Sec. 4. (a) On the effective date of this Act the terms of all members of the Texas Amusement Machine Commission whose membership is prohibited by Section 1 of this Act shall expire and their positions on the board become vacant. The terms of the remaining members will continue until January 31, 1979; on that date, the governor shall appoint three members for the following terms:

- (1) one member for a term that expires January 31, 1985;
- (2) one member for a term that expires January 31, 1983;
- (3) one member for a term that expires January 31, 1981.

(b) The governor by appointment shall fill any vacancy for the unexpired term only.

Sec. 5. This Act takes effect September 1, 1975.

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after September 1, 1975, and it is so enacted.

The Conference Committee Report was read and was adopted.

#### RECORD OF VOTES

Senators Aikin, Moore, Doggett, Creighton, McKnight and Adams asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

June 2, 1975, The House has adopted the Conference Committee Report on S.C.R. 109 by a vote of 109 ayes, 31 noes. (Passed, subject to Sec. 49A, Art. 3, Constitution of Texas)



June 2, 1975, The House has adopted the Conference Committee Report on Senate Bill 869 by a vote of 125 ayes, 10 noes.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 965

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 965 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS  
GAMMAGE  
SNELSON  
TRAEGER  
WILLIAMS  
On the part of the Senate

NABERS  
EZZELL  
VAUGHAN  
TRUAN  
On the part of the House

#### A BILL TO BE ENTITLED

##### AN ACT

relating to the regulation of certain child care facilities and child placing agencies by the State Department of Public Welfare through a division of the department; authorizing advisory committees; providing for licensure, certification, or registration of certain child care facilities and child placing agencies; providing the powers and duties of the State Department of Public Welfare and the division within the department; relating to the immunization of children and the duties of the State Department of Health in regard thereto; requiring certain records; requiring certain reports by the division to the governor; providing for administrative and judicial appeals; providing extent of application of the Administrative Procedure and Texas Register Act; providing sanctions and penalties for certain violations; providing enforcement procedures; providing a saving clause and an effective date; repealing Section 8(a) of the Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes); and

declaring an emergency.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

Section 1. (a) **TITLE.** This Act may be cited as the Child Care Licensing Act.

(b) **LEGISLATIVE INTENT AND DECLARATION OF PURPOSE AND POLICY.** It is the legislative intent to protect the health, safety, and well-being of the children of the state who reside in child care facilities. Toward that end, it is the purpose of this Act to establish statewide minimum standards for the safety and protection of children in child care facilities, to insure maintenance of these standards, and to regulate such conditions in such facilities through a program of licensing. It shall be the policy of the state to insure protection of children under care in child care facilities, and to encourage and assist in the improvement of child care programs. It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in this Act shall give any governmental agency jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any religious instruction or the curriculum of a school sponsored by a church or religious organization.

**Sec. 2. DEFINITIONS.** As used in this Act:

- (1) "Department" means the State Department of Public Welfare.
- (2) "Division" means the division established or designated by the State Department of Public Welfare to carry out the provisions of this Act.
- (3) "Child care facility" means a facility providing care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the service offered by it.
- (4) "Child" means an individual under 18 years of age.
- (5) "Person" includes an individual, a public or private agency, an association, or a corporation.
- (6) "Child caring institution" means a child care facility which provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment camps, emergency shelters, and training or correctional schools for children.
- (7) "Foster group home" means a child care facility which provides care for 7 to 12 children for 24 hours a day.
- (8) "Foster family home" means a child care facility which provides care for not more than 6 children for 24 hours a day.
- (9) "Day care center" means a child care facility which provides care for more than 12 children under 14 years of age for less than 24 hours a day.
- (10) "Group day care home" means a child care facility which provides care for 7 to 12 children under 14 years of age for less than 24 hours a day.
- (11) "Registered family homes" means a child care facility which regularly provides care in the caretaker's own residence for not more than 6 children under 14 years of age, excluding the caretaker's own children, and which provides care after school hours for not more than 6 additional elementary school siblings of the other children given care, provided that the total number of children including the caretaker's own does not exceed 12 at any given time.
- (12) "Family day home" means a child care facility which provides care for not more than 6 children under 14 years of age for less than 24 hours a day not in the caretaker's own residence nor in the residence of one or more of such children.
- (13) "Agency home" means a private home providing care for not more than 6 children, which is used only by a licensed child placing agency, and which meets division standards.
- (14) "Child placing agency" means a person other than the natural parents or guardian of the child who plans for the placement of or places a child in an institution, agency home, or adoptive home.

(15) "State of Texas" or "state" does not include political subdivisions of the state.

(16) The term "facilities" without the modifier "child care" includes child care facilities and child placing agencies.

Sec. 3. DIVISION. (a) The State Department of Public Welfare shall establish or designate a division within the department for the licensure and regulation of child care facilities and child placing agencies and the enforcement of the provisions of this Act and the regulations and standards adopted pursuant thereto and such other duties and responsibilities as the department may delegate or assign.

(b) The commissioner of the department shall appoint as director of the division an individual qualified in one of the following ways:

(1) by meeting the qualifications required of a child care administrator by Chapter 231, Acts of the 63rd Legislature, Regular Session, 1973 (Article 695a-1, Vernon's Texas Civil Statutes);

(2) by holding a graduate degree in social science or law and having five years administrative experience in a field related to child care; or

(3) by having 10 years' experience in a field related to child care, at least five of which must be administrative.

(c) The department shall employ sufficient personnel and shall provide adequate training to the persons employed to carry out the provisions of this Act.

(d) The director may divide the state into regions for the purposes of administering this Act.

Sec. 4. REQUIRED LICENSE. (a) No person may operate a child care facility or child placing agency unless he holds a valid license issued by the division.

(b) This section does not apply to:

(1) state-operated facilities;

(2) agency homes;

(3) facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or individuals in charge of the children are attending church services, shopping, or engaging in other activities on or near the premises, which with respect to churches or other religious institutions shall include but not be limited to Sunday school, retreats, or weekly catechism or other schools or classes for religious instruction;

(4) schools or classes for religious instruction conducted by churches during the summer months for not more than two weeks, known as vacation Bible schools;

(5) youth camps licensed by the State Department of Health;

(6) hospitals licensed by the Texas Department of Mental Health and Mental Retardation or the State Department of Health;

(7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operate primarily for educational purposes in grades kindergarten and above;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two and does not provide custodial care for more than one hour during the hours before or after the customary school day, and are members of an organization which promulgates, publishes, and requires compliance with the health, safety, fire, and sanitation standards at least equal to those required by state, municipal, and county health, safety, fire, and sanitation codes;

(9) kindergarten or preschool educational programs operated as part of the public schools of this state or of private schools accredited by the Central Education Agency that offer educational programs through grade six and that do not provide custodial care during the hours before or after the customary school day.

(10) registered family homes as defined in Section 2 of this Act.

(c) In the event that a child caring institution operates facilities that are noncontiguous, but of a near proximity and demonstrable singleness of operation (as determined by patterns of staffing, finance, administrative supervision, and programs) a

single license may be issued to the institution noting the addresses and facilities appropriate.

Sec. 5. RULES, REGULATIONS, AND STANDARDS. (a) The department shall promulgate reasonable rules and regulations to carry out the provisions of this Act.

(b) The department shall promulgate minimum standards for child care facilities covered by this Act which will:

(1) promote the health, safety, and welfare of children attending any facility;  
(2) promote safe, comfortable, and healthy physical facilities for children;  
(3) insure adequate supervision of the children by capable, qualified, and healthy personnel;

(4) insure adequate and healthy food service, where it should be offered;

(5) prohibit racial discrimination by child care facilities; and

(6) include procedures by which parents and guardians are given opportunity for consultation in formulation of the children's educational and therapeutic programs.

(c) In promulgating minimum standards for child care facilities, the department should take cognizance of the various categories of facilities, including facilities offering specialized care, and the various categories of children and their particular needs. Standards for child care institutions must require an intake study before a child is placed in an institution. The study may be conducted at a community mental health and mental retardation center.

(d) In promulgating minimum standards the department may take cognizance of, and may differentiate with respect to, the following child care facilities: child caring institutions, foster homes, day care centers, group day care homes, family day homes, registered family homes, and agency homes.

(e) The department shall promulgate minimum standards for child placing agencies.

(f) The department shall promulgate standard forms for applications and inspection reports.

(g) The department shall promulgate a standard procedure for receiving and recording complaints and a standard form for complaints.

(h) Before adoption of minimum standards, the division shall present the proposed standards to the State Advisory Committee on Child Care Facilities for its review and comment and shall send a copy of the proposed standards to each licensee covered by the proposed minimum standards at least 60 days prior to the effective date of the proposed standards in order to enable the persons to review the proposed standards and make written suggestions to the department and the council.

(i) A comprehensive review of all standards, rules, and regulations must be made at least every six years.

(j) The department shall not regulate or attempt to regulate or control the content or method of any instruction or the curriculum of a school sponsored by a church or religious organization.

(k) The department may in specific instances waive the compliance with a minimum standard on a determination that the economic impact is sufficiently great to make such compliance impractical.

Sec. 6. RULES RELATING TO IMMUNIZATION OF CHILDREN. (a) The department shall promulgate rules and regulations relating to immunization of children admitted to facilities.

(b) The rules shall require the immunization of each child at an appropriate age against diphtheria, tetanus, poliomyelitis, rubella, and rubeola and a test for tuberculosis, and the immunization must be effective on the date of first entry into the facility; provided, however, a child may be provisionally admitted if he has begun the required immunizations and if he continues to receive the necessary immunizations as rapidly as is medically feasible.

(c) The State Department of Health shall promulgate rules and regulations relating to the provisional admission of children to facilities. The State Board of Health may modify or delete any of the immunizations listed in this section or may require immunization against additional diseases as a requirement for admission to facilities; but no form of immunization shall be required for a child's admission to a facility if the person applying for the child's admission submits either an affidavit signed by a doctor in which it is stated that, in the doctor's opinion, the immunization would be injurious to the health and well-being of the child or of any member of his family or household, or an affidavit signed by the parent or guardian of the child stating that the immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member.

(d) Each facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the division at all reasonable times.

(e) The State Department of Health shall provide the required immunizations to children in areas where no local provision exists to provide these services.

Sec. 7. INSPECTION. (a) An authorized representative of the division may visit a child care facility or child placing agency during the hours of operation for purposes of investigation, inspection, and evaluation.

(b) The division shall inspect all facilities licensed or certified by the division at least once a year and may inspect other facilities as necessary. At least one of the yearly visits must be unannounced, and all may be unannounced.

(c) An investigation visit must be made if a complaint is received by the division. The division representative must notify the director or authorized representative of the director of the facility being investigated that a complaint is being investigated. The results of the investigation must be reported in writing to the director.

(d) The division may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields.

Sec. 8. CONSULTATION. (a) The department shall offer consultation to potential applicants, applicants, licensees, and holders of certification in meeting and maintaining standards for licensing and certification and in achieving programs of excellence related to the care of children served.

(b) The department shall offer consultation to prospective and actual users of facilities.

Sec. 9. ADVISORY OPINIONS AND DECLARATORY ORDERS. (a) The director of the division may give advisory opinions on compliance of planned facilities or planned changes in existing facilities with division rules, regulations, and minimum standards.

(b) If a written opinion signed by the director of the division and the division representative administering this Act in a division region is acted on by an applicant or licensee, it is binding upon the division as a declaratory order.

Sec. 10. RECORDS. (a) All persons operating a licensed or certified child care facility or child placing agency shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) All persons operating a licensed facility, other than a child care facility which provides care for less than 24 hours a day, or an agency home, shall have its books audited annually by a certified public accountant and include a copy of the accountant's statement of income and disbursements with each application for a license.

Sec. 11. ISSUANCE OF LICENSE. (a) A person desiring to operate a child care facility or child placing agency shall apply in writing to the division for a license.

(b) The division shall supply the applicant with the appropriate application forms and a copy of the appropriate minimum standards.

(c) On receipt of the application, the division shall conduct an investigation of the applicant and the plan of care for children.

(d) The division shall complete its investigation and render a decision on the application within two months after receipt of the application.

(e) If the division determines that the facility has reasonably satisfied all requirements, it shall issue a license.

(f) In issuing a license, the division may impose restrictions on the facility, including, but not limited to, the number of children to be served and the type of children to be served.

(g) A variance of an individual standard set forth in the standards may be granted for good and just cause by the division.

(h) A license applies only to the location stated on the application and license issued and is not transferable from one person to another or from one place to another. If the location of the facility is changed or the owner of the facility is changed, the license is automatically revoked.

(i) The licensee must display the license in a prominent place at the facility.

(j) Prior to expiration of its license, a facility may apply for a new license in accordance with the provisions of this Act and the rules and regulations promulgated by the division. The application must be completed and acted on prior to the expiration of a license. Evaluation to determine if the applying facility meets all requirements must include a specified number of visits to the facility and review of all required forms and records.

Sec. 12. PROVISIONAL LICENSE. (a) The division shall issue a provisional license to a facility whose plans meet the department requirements but which is (1) not currently operating, (2) not licensed for the location stated in the application, or (3) changing ownership.

(b) A provisional license is valid for six months from the date of issuance and is nonrenewable.

Sec. 13. BIENNIAL LICENSE. (a) A biennial license will be issued if the division determines that the facility meets all requirements on a continuing basis. The evaluation shall be based on a specified number of visits to the facility and a review of all required forms and records.

(b) A biennial license shall be valid for two years.

Sec. 14. CERTIFICATION AND REGISTRATION. (a) Child care facilities and child placing agencies operated by the state, and registered family homes, are exempt from the licensing requirements of this Act, but state operated facilities must receive certification of approval from the division and registered family homes must be registered.

(b) To be certified, the facilities must meet all department standards, rules and regulations, and provisions of this Act that apply to licensed facilities of the same category. The operator of a certified facility must display the certification in a prominent place at the facility. Certification of approval must be renewed every two years.

(c) To be registered, the facility must meet department standards, rules, regulations, and provisions of this Act that apply to registered facilities.

Sec. 15. AGENCY HOMES. (a) An agency home is exempt from the licensing requirements of this Act but shall be considered part of the child placing agency operating the home when the agency is licensed.

(b) The agency homes must meet all department standards, rules and regulations, and provisions of this Act that apply to child care facilities caring for a similar number of children for a similar number of hours each day.

(c) The operator of the licensed agency must display a copy of the license in a prominent place at an agency home used by the agency.

(d) If an agency home fails to meet the requirements of Subsection (b) of this section, the division shall suspend or revoke the license of the child placing agency.

Sec. 16. STATE ADVISORY COMMITTEE. (a) The State Advisory Committee on Child Care Facilities is hereby established.

(b) The commissioner of the department shall appoint 15 citizens to serve as members of the committee for terms of two years.

(c) The members must represent the following groups:

- (1) parents, guardians, or custodians of the children who use the facilities;
- (2) child advocacy groups;
- (3) operators of the facilities; and
- (4) experts in various professional fields which are relevant to child care and development.

(d) At least three members of the division staff shall meet with the committee, and the division shall provide staff necessary for the committee.

(e) The committee shall review rules and regulations and minimum standards relating to child care facilities and child placing agencies promulgated by state agencies, and shall advise the department and the division, the council, and state agencies on problems of child care facilities and child placing agencies.

(f) The committee shall receive and review the annual report of the division.

(g) The committee shall meet twice a year, and the members shall receive their actual travel expenses and the state per diem.

Sec. 17. ANNUAL REPORT. (a) The division shall present to the governor, lieutenant governor, and members of the legislature an annual report of its activities.

(b) The annual report must include:

(1) a report by regions of applications; provisional licenses issued, denied, suspended, and revoked; licenses issued, denied, suspended, and revoked; emergency closures and injunctions; and compliance of state operated agencies with certification requirements;

(2) a summary of the amount and kinds of in-service training and other professional growth opportunities provided to division staff;

(3) a summary of training and other professional growth opportunities offered to child care facilities staff;

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year.

(c) Copies of the annual report shall be made available to any citizen of the state upon request.

Sec. 18. SUSPENSION. (a) If a facility has temporarily suspended operations but has definite plans for renewing operations within the time limits of the issued license, the division may suspend the license.

(b) If the division finds repeated noncompliance with standards that do not endanger the health or safety of the children, the division has the option of suspending the license for a definite period of time instead of denying or revoking the license. In order to qualify for suspension under this subsection, the facility must:

(1) show it can meet the standards within the suspension period, and

(2) suspend its operations.

(c) If a facility does not comply with standards after the suspension, the division must deny or revoke its license.

Sec. 19. DENIAL OR REVOCATION. (a) If the division finds that a facility does not comply with the provisions of this Act, the department standards, department rules and regulations, or the specific terms of a license or certification, it must deny or revoke the license or certification of approval.

(b) The division must notify the person operating or proposing to operate the facility of the reasons for the denial or revocation and the person's right of appeal within 30 days of receipt of the director's notification.

(c) If the person wishes to appeal, he must notify the director by certified mail within 30 days and must state in the notification the reasons against denial or revocation. The person must send a copy of the notification to the assigned division

representative.

(d) Within two weeks following the date the appeal notification was mailed, the director shall notify the person that the request for an appeal hearing is denied, or he shall appoint an advisory review board to hear the appeal.

(e) Within two weeks following notification to the person that an advisory review board will hear his case, the director shall appoint five of the person's peers to an advisory review board and shall set a date for the hearing. The date for the hearing must be within four weeks following the date of the appointment of the members.

(f) The advisory review board shall hear the appeal and render an advisory opinion to the director within one week of the hearing. The board members shall receive actual travel expenses and state per diem for each day of the hearing.

(g) The advisory opinion will be reviewed by a committee composed of the director, the division representative responsible for establishing standards, and the division representative administering this Act in the region in which the facility is located. The committee shall render a decision within two weeks after receiving the advisory opinion and shall notify by certified mail the person of its decision.

(h) Within 30 days after receipt of the committee's decision, the person whose license has been denied or revoked may challenge the decision in a suit filed in a district court of Travis County or the county in which the facility is located. The trial shall be de novo.

(i) On request by a person challenging a division decision in a court suit, the division shall supply him with a copy of the verbatim transcript of his advisory review board hearing, at his expense. Records of the hearing shall be kept for one year after a final decision is rendered.

(j) Unless the division uses the procedures set forth in Section 22 or 23 of this Act, a person may continue to operate a facility during an appeal of the denial or revocation of its license.

Sec. 20. The Administrative Procedure Act, S.B. No. 41, Acts of the 64th Legislature, Regular Session, 1975, applies to all procedures and proceedings under this Act, except where it is contrary or inconsistent with the provisions of this Act, in which case the provisions of this Act shall govern.

Sec. 21. CLOSURE OF A FACILITY. (a) If the division finds any violation of this Act or the department's minimum standards or rules and regulations by a facility other than a state-operated facility that places the children in the facility in immediate peril, it may close the facility and place the children attending the facility in another facility.

(b) A division representative finding conditions that place children in a facility in peril shall immediately contact the director of the division and request the director or his designee to immediately inspect the facility for verification of the conditions.

(c) If the division finds any violation of this Act or the department's minimum standards or rules and regulations by a state operated facility that threatens serious harm to the children in the facility, the division representative shall immediately report the finding to the governor and the commissioner of the department.

(d) Closure under this section is an emergency measure. After closing a facility, the division must seek an injunction against continued operation of the facility as prescribed in Section 22 of this Act.

Sec. 22. INJUNCTIVE RELIEF. (a) Whenever it appears that a person has violated or is violating or threatening to violate any provision of this Act or of any rule, regulation, or standard of the department, the division may cause a civil suit to be instituted in a district court of Travis County or in the county in which the facility is located, for injunctive relief, including temporary restraining orders, to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation, as the court may deem proper, or for both injunctive relief and civil penalties. Upon application for injunctive relief and a finding



that a person is violating or threatening to violate any provision of this Act or of any rule, regulation, standard, or order of the board, the district court shall grant the injunctive relief the facts may warrant.

(b) At the request of the division, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Sec. 23. CIVIL PENALTY. Any person who violates any provision of this Act or rule, regulation, or standard of the department which threatens serious harm to the children in the facility, or who violates any provision of this Act or rule, regulation, or standard of the department three or more times within a period of a year, or who operates a facility without a license or certification as required under this Act, or who places a public advertisement for an unlicensed facility, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation, as the court may deem proper. Civil penalties shall be cumulative and in addition to the remedies of injunction and criminal penalties provided in this Act.

Sec. 24. CRIMINAL PENALTY. (a) A person operating a child care facility or child placing agency without a license is guilty of a Class B misdemeanor.

(b) A person placing a public advertisement for an unlicensed facility is guilty of a Class C misdemeanor.

Sec. 25. PRIOR ISSUED LICENSES. Licenses issued before the effective date of this Act remain valid for a period not to exceed two years from the effective date of this Act.

Sec. 26. REPEALER. Section 8(a), The Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes), is repealed.

Sec. 27. EFFECTIVE DATE. This Act shall take effect January 1, 1976.

Sec. 28. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was adopted by the following vote: Yeas 15, Nays 14, Present-Not voting 1.

Yeas: Andujar, Brooks, Doggett, Farabee, Gammage, Hance, Harrington, Lombardino, Mauzy, Meier, Moore, Santiesteban, Schwartz, Snelson and Traeger.

Nays: Adams, Aikin, Braecklein, Clower, Creighton, Jones, Kothmann, Longoria, McKinnon, McKnight, Mengden, Patman, Sherman and Williams.

Present-Not voting: Ogg.

Absent: Harris.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the Conference Committee Report on Senate Bill 1010 adopted by a non-record vote.

Pursuant to H.C.R. 163, H.B. 1918 is returned to the Senate.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### HOUSE CONCURRENT RESOLUTION 167 ON SECOND READING

The President laid before the Senate the following resolution:

H.C.R. 167, Suspending Joint Rules to permit S.B. 317 to be considered at any time.

The resolution was read.

On motion of Senator Mengden and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent: Harris.

#### AT EASE

On motion of Senator Aikin and by unanimous consent, the Senate at 5:23 o'clock p.m. agreed to Stand At Ease Subject to the Call of the Chair.

#### IN LEGISLATIVE SESSION

The President called the Senate to order As In Legislative Session at 6:47 o'clock p.m.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 170, Commending staff of Health Study Committee.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 819**

Senator Moore submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 819** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MOORE  
ADAMS  
BROOKS  
GAMMAGE  
CLOWER  
On the part of the Senate

WILSON  
GEIGER  
BOONE  
OLSON  
On the part of the House

The Conference Committee Report was read.

Pending discussion by Senator Clower of the Conference Committee Report, Senator Moore moved the Previous Question on the adoption of the Conference Committee Report on **H.B. 819** and the Motion was duly seconded by Senators Brooks, Gammage, Adams, Doggett, Mauzy, Aikin, Lombardino and Braecklein.

Question - Shall the Previous Question now be ordered?

The Previous Question was ordered by the following vote: Yeas 20, Nays 9.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, Mauzy, Meier, Moore, Ogg and Williams.

Nays: Harris, McKinnon, McKnight, Mengden, Patman, Santiesteban, Schwartz, Sherman and Snelson.

Absent: Creighton and Traeger.

The Conference Committee Report was then adopted by the following vote: Yeas 22, Nays 9.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Gammage, Harrington, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Traeger and Williams.

Nays: Andujar, Farabee, Hance, Harris, Jones, McKnight, Meier, Sherman and Snelson.

#### SENATE BILL 1073 WITH HOUSE AMENDMENT

Senator Adams called **S.B. 1073** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### COMMITTEE AMENDMENT NO. 1

Amend **S.B. 1073** by striking all below the enacting clause and substituting the following:

Section 1. **SHORT TITLE.** This Act may be cited as the State Telecommunications Consolidation Act of 1975:

Sec. 2. **DEFINITIONS.** In this Act:

(1) "Telecommunications services" as used in this Act pertains to intercity communications facilities or services, provided that any dedicated circuits included as part of the consolidated system are considered to begin and end at the main connecting frame. "Telecommunications services" does not include single agency point-to-point radio systems or facilities or services of criminal justice information communication systems.

(2) "Consolidated telecommunications systems" is the network of telecommunications services serving the government of the State of Texas.

(3) "State agency" or "agency" means:

(A) any department, commission, board, office, or other agency that:  
(i) is in the executive branch of state government;  
(ii) has authority that is not limited to a geographical portion of the state; and

(iii) was created by the constitution or a statute of this state; or  
(B) a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended, other than a public junior college or community college.

Sec. 3. **SYSTEM OF TELECOMMUNICATIONS SERVICES.** (a) The State Board of Control shall plan, establish, and manage the operation of a system of telecommunications services for all state agencies. Each agency shall identify its particular telecommunications services requirements and the site at which the service shall be provided.

(b) The board shall fulfill the telecommunication requirements of each state agency to the extent possible and to the extent that funds are appropriated or available for this purpose.

(c) The board may negotiate rates and execute contracts with telecommunication service utilities for services, lease transmission facilities on a competitive bid basis if possible, and develop, establish, and maintain carrier systems necessary to the operation of the telecommunications system established under this Act.

(d) All contracts with telecommunications carriers shall contain the provision that the State Board of Control or any participating agency may obtain any data relating to the costs to the state of parallel tolls.

Sec. 4. **POLICIES AND GUIDELINES.** (a) In order to insure efficient utilization of telecommunication systems at minimum cost to the state, the board shall promulgate and disseminate to all agencies appropriate policies, guidelines, operating procedures, and telephone directories.

(b) Each agency shall comply with the policies, guidelines, and operating procedures, promulgated by the board. The board, with the advice of the State Auditor, shall maintain records relating to the consolidated telecommunications system as necessary to enable the board to analyze the cost effectiveness of the system to the state agencies, and shall advise the legislature at each session as to the cost effectiveness of the system. If, in the opinion of the board, the total cost of the system reaches a level which would justify total state ownership and operation of the system, the board shall recommend to the legislature the implementation of such action.

Sec. 5. **BALANCING OF TECHNOLOGICAL ADVANCEMENTS AND EXISTING FACILITIES.** In the planning, design, implementation, and operation of the telecommunication systems and facilities, the board shall maintain an appropriate balance between the adoption of technological advancements and the efficient utilization of existing facilities and services in order to avoid misapplication of state funds and degradation or loss of the integrity of existing systems and facilities.

Sec. 6. **FACILITIES AND SERVICES TO BE INTEGRATED OR SHARED.** Telecommunication facilities and services, to the extent feasible and desirable, shall be provided on an integrated or shared basis, or both, to avoid waste of state funds and manpower.

Sec. 7. **PAYMENT FOR SERVICES AND FACILITIES.** (a) The board shall develop a system of billings and charges for services provided in operating and administering the consolidated telecommunication system, which allocates the total state cost to each entity serviced based on proportionate usage.

(b) The comptroller of public accounts shall establish in the State Treasury a revolving account for the administration of this Act. The account shall be used as a depository for funds received from entities served and as a source of funds to purchase, lease, or otherwise acquire services, supplies, and equipment, and to pay salaries, wages, and other costs directly attributable to the provisions and operations of the system.

(c) In order to provide an adequate cash flow as may be necessary for purposes of this Act, using state agencies and other entities, upon proper notification, shall make monthly payments into the telecommunication revolving fund account from appropriated or other available funds. The legislature, in its discretion, may appropriate funds for the operation of the system directly to the board. In that case the revolving fund shall be used to receive funds due from local government entities and other agencies to the extent that their funds are not subject to legislative appropriation.

Sec. 8. **PARTICIPATION BY LOCAL GOVERNMENTS, ETC.** The board may contract with each house of the legislature, legislative agencies, counties, cities, districts, and other political subdivisions and agencies not within the definition of "state agency", for utilization of the state telecommunication system.

Sec. 9. **DESIGNATED AGENT.** The board is designated as the agency of this state responsible for obtaining telecommunication services.

Sec. 10. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The House amendment was read.

Senator Adams moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Aikin.

Absent: Creighton.

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 292**

Senator Hance submitted the following Conference Committee Report:

Austin, Texas  
May 27, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 292**, have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MUNSON  
WIETING  
WILSON  
SHORT  
BIGHAM  
On the part of the House

HANCE  
FARABEE  
SHERMAN  
SNELSON  
LOMBARDINO  
On the part of the Senate

The Conference Committee Report was read and was adopted.

**RECORD OF VOTE**

Senator McKinnon asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

**SENATE RESOLUTION 720**

Senator McKnight offered the following resolution.

WHEREAS, In order to expedite the routine business of the Texas Senate during the 64th Session there was established that parliamentary instrument known as the "Local & Uncontested Calendar;" and

WHEREAS, This legislative animal was tested and tamed by two great men of the West, The Honorable Don "Adamant-Mouth" Adams, and The Honorable John "Flappin' Tongue" Traeger; and

WHEREAS, Under the leadership of these two gentlemen the Senate Administration Committee cleared the path for consideration of the weighty issues of the day by dealing with upwards of 1,000 individual pieces of legislation, all good bills of a local nature, most with statewide impact; and

WHEREAS, The early morning and late night work of the committee and its leaders has greatly relieved the strain of the legislative workload and permitted this body to move with prudence toward solutions to the major issues facing Texas today; now, therefore, be it

**RESOLVED**, That the Senate of the 64th Legislature hereby pay tribute, give recognition and extend appreciation to Senator Don Adams, Chairman, and the members of his committee for the conscientious, fair and impartial way that the voluminous business of the Local Calendar was conducted this session.

The resolution was read and was adopted.

**HOUSE CONCURRENT RESOLUTION 127 ON SECOND READING**

The President laid before the Senate the following resolution:

**H.C.R. 127**, Creating a special interim committee to study the means of stimulating the Textile Industry in Texas.

The resolution was read.

Senator Hance asked unanimous consent, to consider the resolution immediately.

There was objection.

Senator Hance moved to suspend the regular order of business to consider the resolution.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Aikin and Mauzy.

The resolution was then adopted.

### RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the resolution.

### SENATE BILL 127 WITH HOUSE AMENDMENTS

Senator Meier called **S.B. 127** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

### COMMITTEE AMENDMENT NO. 1

Amend **S.B. 127** by striking all below the enacting clause and substituting the following:

Section 1. Subsection (a), Section 1.07, Penal Code, is amended by adding Subdivision (9.1) to read as follows:

"(9.1) 'Corporation' includes nonprofit corporations, professional associations created pursuant to statute, and joint stock companies."

Sec. 2. Section 2.05, Penal Code, is amended to read as follows:

"Section 2.05. PRESUMPTION. When this code or another penal law establishes a presumption with respect to any fact, it has the following consequences:

"(1) if there is sufficient evidence of the facts that give rise to the presumption, the issue of the existence of the presumed fact must be submitted to the jury, unless the court is satisfied that the evidence as a whole clearly precludes a finding beyond a reasonable doubt of the presumed fact; and

"(2) if the existence of the presumed fact is submitted to the jury, the court shall charge the jury, in terms of the presumption and the specific element to which it applies, as follows:

"(A) that the facts giving rise to the presumption must be proven beyond a reasonable doubt;

"(B) that if such facts are proven beyond a reasonable doubt the jury may find that the element of the offense sought to be presumed exists, but it is not bound to so find;

"(C) that even though the jury may find the existence of such element, the state must prove beyond a reasonable doubt each of the other elements of the offense charged; and

"(D) if the jury has a reasonable doubt as to the existence of a fact or facts giving rise to the presumption, the presumption fails and the jury shall not consider the presumption for any purpose ~~[the element to which the presumption applies, or any other element of the offense charged, it shall acquit the defendant and say by its verdict not guilty]."~~

Sec. 3. Subsection (a), Section 6.01, Penal Code, is amended to read as follows:

"(a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession, ~~in violation of a statute that provides that the conduct is an offense]."~~

Sec. 4. Subsection (b), Section 7.22, Penal Code, is amended as follows:

"(b) A corporation or association is criminally responsible for a felony offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:

"(1) a majority of the governing board ~~[of directors]~~ acting in behalf of the corporation or association; or

"(2) a high managerial agent acting in behalf of the corporation or association and within the scope of his office or employment."



Sec. 5. Section 7.24, Penal Code, is amended to read as follows:

"Section 7.24. DEFENSE TO CRIMINAL RESPONSIBILITY OF CORPORATION OR ASSOCIATION. ~~[(a)]~~ It is an affirmative defense to prosecution of a corporation or association under Section 7.22(a)(1) or (a)(2) of this code that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent its commission.

~~"[(b) Subsection (a) of this section does not apply if it is plainly inconsistent with the legislative purpose expressed in the law defining the particular offense.]"~~

Sec. 6. Section 9.44, Penal Code, is amended to read as follows:

"Section 9.44. USE OF DEVICE TO PROTECT PROPERTY. The justification afforded by Sections 9.41 and ~~[through]~~ 9.43 of this code applies to the use of a device to protect land or tangible, movable property if:

"(1) the device is not designed to cause, or known by the actor to create a substantial risk of causing, death or serious bodily injury; and

"(2) use of the device is reasonable under all the circumstances as the actor reasonably believes them to be when he installs the device."

Sec. 7. Section 16.01, Penal Code, is amended to read as follows:

"Section 16.01. UNLAWFUL USE OF CRIMINAL INSTRUMENT. (a) A person commits an offense if:

"(1) he possesses a criminal instrument with intent to use it in the commission of an offense; or

"(2) with knowledge of its character and with intent to use or aid or permit another to use in the commission of an offense, he manufactures, adapts, sells, installs, or sets up a criminal instrument.

"(b) For the purpose ~~[purposes]~~ of this section, 'criminal instrument' means anything, the possession, manufacture, or sale of which is not otherwise an offense, that is specially designed, made, or adapted for use in the commission of an offense.

"(c) An offense under Subsection (a)(1) of this section is one category lower than the offense intended. An offense under Subsection (a)(2) of this section is a felony of the third degree."

Sec. 8. Section 21.09, Penal Code, is amended to read as follows:

"Section 21.09. RAPE OF A CHILD. (a) A person commits an offense if he has sexual intercourse with a female not his wife and she is younger than 17 years.

"(b) It is a defense to prosecution under this section that the female was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in sexual intercourse or deviate sexual intercourse."

"(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim.

"(d) An offense under this section is a felony of the second degree."

Sec. 9. Subdivision (5), Section 31.01, Penal Code, is amended to read as follows:

"(5) 'Appropriate' means:

"(A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or

"(B) to acquire or otherwise exercise control over property other than real property ~~['Obtain' means to bring about a transfer or purported transfer of a nonpossessory interest in property, whether to the actor or another]."~~

Sec. 10. Subsections (a), (b), and (d), Section 31.03, Penal Code, are amended to read as follows:

"(a) A person commits an offense if he unlawfully appropriates property~~[-]~~ with intent to deprive the owner of property~~[-]~~

~~"(1) he obtains the property unlawfully; or~~

~~"(2) he exercises control over the property, other than real property, unlawfully]."~~

"(b) Appropriation of ~~[Obtaining or exercising control over]~~ property is unlawful if:

"(1) it is ~~[the actor obtains or exercises control over the property]~~ without the owner's effective consent; or

"(2) the property is stolen and the actor appropriates ~~[obtains it from another or exercises control over]~~ the property ~~[obtained by another]~~ knowing it was stolen by another.

"(d) An offense under this section is:

"(1) a Class C misdemeanor if the value of the property stolen is less than \$5;

"(2) a Class B misdemeanor if:

"(A) the value of the property stolen is \$5 or more but less than \$20; or

"(B) the value of the property stolen is less than \$5 and the defendant has previously been convicted of any grade of theft;

"(3) a Class A misdemeanor if the value of the property stolen is \$20 or more but less than \$200;

"(4) a felony of the third degree if:

"(A) the value of the property stolen is \$200 or more but less than \$10,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$10,000;

"(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave; or

"(C) the value of the property stolen is less than \$200 and the defendant has been previously convicted two or more times of any grade of theft;

"(5) a felony of the second degree if the value of the property stolen is \$10,000 or more;

"(6) a felony of the second degree regardless of the value, if the property was stolen by threat to commit, in the future, a felony offense against the person or property of the person threatened or another."

Sec. 11. Sections 36.01, 36.02, 36.07, 36.08, and 36.10, Penal Code, are amended to read as follows:

"Section 36.01. DEFINITIONS. In this chapter:

"(1) 'Coercion' means a threat, however communicated:

"(A) to commit any offense;

"(B) to inflict bodily injury on the person threatened or another;

"(C) to accuse any person of any offense;

"(D) to expose any person to hatred, contempt, or ridicule;

"(E) to harm the credit or business repute of any person; or

"(F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

"(2) 'Custody' means:

"(A) detained or under arrest by a peace officer; or

"(B) under restraint by a public servant pursuant to an order of a court.

"(3) 'Official proceeding' means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath.

"(4) 'Party official' means a person who holds any position or office in a political party, whether by election, appointment, or employment.

"(5) 'Pecuniary benefit' means money, property, commercial interests, or other similar benefit the primary significance of which is economic gain; but does not include campaign contributions made and reported in accordance with law.

"(6) 'Vote' means to cast a ballot in an election regulated by law.

"Section 36.02. BRIBERY. (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

"(1) any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

"(2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

"(3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official.

"(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

"(c) An offense under this section is a felony of the second degree. (a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant, party official, or voter:

"(1) with intent to influence the public servant or party official in a specific exercise of his official powers or a specific performance of his official duties; or

"(2) with intent to influence the voter not to vote or to vote in a particular manner.

"(b) A public servant or party official commits an offense if he knowingly solicits, accepts, or agrees to accept any benefit on the representation or understanding that he will be influenced in a specific exercise of his official powers or a specific performance of his official duties.

"(c) A voter commits an offense if he knowingly accepts or agrees to accept any benefit on the representation or understanding that he will not vote or will vote in a particular manner.

"(d) An offense under this section is a felony of the third degree unless committed under Subsection (b) of this section, in which event it is a felony of the second degree.]"

"Section 36.07. COMPENSATION FOR PAST OFFICIAL BEHAVIOR. (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer any pecuniary benefit on a public servant for the public servant's having exercised his official powers or performed his official duties in favor of the actor or another.

"(b) A public servant commits an offense if he intentionally or knowingly solicits, accepts, or agrees to accept any pecuniary benefit for having exercised his official powers or performed his official duties in favor of another.

"(c) An offense under this section is a Class A misdemeanor.

"Section 36.08. GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION. (a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

"(b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows to be in his custody or the custody of his agency.

"(c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.

"(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his

discretion.

"(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

"(f) A public servant who is a member of or employed by the legislature or by an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from any [a] person ~~[the public servant knows is interested in any matter pending before or contemplated by the legislature or an agency of the legislature].~~

"(g) An offense under this section is a Class A misdemeanor."

"Section 36.10. ~~NON-APPLICABLE [DEFENSES].~~ ~~[(e) It is a defense to prosecution under Section]~~ Sections 36.07 (Compensation for Past Official Behavior), 36.08 (Gift to Public Servant), and ~~or~~ 36.09 (Offering Gift to Public Servant) of this code do not apply to ~~[that the benefit involved was]:~~

"(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

"(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

"(3) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

"(A) not more than the honorarium is received from the same person in a calendar year; and

"(B) the honorarium, regardless of amount, is reported in the financial statement filed under Chapter 421, Acts of the 63rd Legislature, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), if the recipient is required to file a financial statement under that Act; [a trivial benefit incidental to personal, professional, or business contacts that involves no substantial risk of undermining official impartiality; or]

"(4) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest and reported as required by law; or

"(5) a benefit to a public servant required to file a financial statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), that is derived from a function in honor or appreciation of the recipient if:

"(A) the benefit and the source of any benefit in excess of \$10 is reported in the financial statement; and

"(B) the benefit is used solely to defray expenses of the public servant's official position or for political purposes [a contribution made under the election laws for the political campaign of an elective public servant when he is a candidate for nomination or election to public office].

Sec. 12. Subsection (a), Section 42.11, Penal Code, is amended to read as follows:

"(a) A person commits an offense if he intentionally or knowingly:

"(1) tortures or seriously overworks an animal;

"(2) fails unreasonably to provide necessary food, care, or shelter for an animal in his custody;

"(3) abandons unreasonably an animal in his custody;

"(4) transports or confines an animal in a cruel manner;

"(5) kills, injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; or

"(6) causes one animal to fight with another."

Sec. 13. Subdivision (6), Section 46.01, Penal Code, is amended as follows:

"(6) 'Illegal knife' means a:

"(A) knife with a blade over five and one-half inches;

"(B) a hand instrument designed to cut or stab another by being thrown  
~~[throw blade knife];~~

"(C) dagger, including but not limited to a dirk, stiletto, and poniard;

"(D) bowie knife;

"(E) sword; or

"(F) spear."

Sec. 14. Section 46.03, Penal Code, is amended to read as follows:

"Section. 46.03. NON-APPLICABLE. The provisions of Section 46.02 of this code do not apply to a person:

"(1) in the actual discharge of his official duties as a peace officer, a member of the armed forces or national guard, or a guard employed by a penal institution;

"(2) on his own premises or premises under his control;

"(3) traveling; or

"(4) engaging in lawful hunting, ~~or~~ fishing, or other ~~lawful~~ sporting activity if the weapon is a type commonly used in the activity."

Sec. 15. Section 46.06, Penal Code, is amended to read as follows:

"Section 46.06. PROHIBITED WEAPONS. (a) A person commits an offense if he intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

"(1) an explosive weapon;

"(2) a machine gun;

"(3) a short-barrel firearm;

"(4) a firearm silencer;

"(5) a switchblade knife; or

"(6) knuckles.

"(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a penal institution.

"(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.

"(d) It is an affirmative defense to prosecution under this section that the actor's conduct was incidental to dealing with a switchblade knife, springblade knife, or short-barrel firearm solely as an antique or curio.

"(e) An offense under this section is a felony of the second degree unless it is committed under Subsection (a)(5) or (a)(6) of this section, in which event, it is a Class A misdemeanor ~~[felony of the third degree].~~"

Sec. 16. Sections 2.06, 21.06, and 42.12, Penal Code, and Articles 30, 602, 602-A, and 602-B, Penal Code of Texas, 1925, as amended, and Section 19, Chapter 83, Acts of the 62nd Legislature, Regular Session, 1971 (Section 50A, Article 6701d, Vernon's Texas Civil Statutes), are repealed.

Sec. 17. SAVING PROVISIONS. (a) Except as provided in Subsections (b) and (c) of this section, this Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before the effective date, which law is continued in effect for this purpose, as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date.

(b) Conduct constituting an offense under existing law that is repealed by this Act and that does not constitute an offense under this Act may not be prosecuted after the effective date of this Act. If, on the effective date of this Act, a criminal action is pending for conduct that was an offense under the laws repealed by this Act and that does not constitute an offense under this Act, the action is dismissed on the effective

date of this Act. However, a conviction existing on the effective date of this Act for conduct constituting an offense under laws repealed by this Act is valid and unaffected by this Act. For purposes of this section, 'conviction' means a finding of guilt in a court of competent jurisdiction, and it is of no consequence that the conviction is not final.

(c) In a criminal action pending on or commenced on or after the effective date of this Act, for an offense committed before the effective date, the defendant, if adjudged guilty, shall be assessed punishment under this Act if he so elects by written motion filed with the trial court before the sentencing hearing begins.

Sec. 18. EMERGENCY. The importance of this legislation and the crowded conditions of the calendars of both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house is suspended, and this rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### COMMITTEE AMENDMENT NO. 2

Amend S.B. 127 by striking all above the enacting clause and substituting the following:

#### "A BILL TO BE ENTITLED

#### AN ACT'

"amending various sections of the Penal Code as follows: amending Section 1.07 by adding Subdivision (9.1) relating to the definition of corporation; amending Section 2.05 relating to presumptions; amending Subsection (a), Section 6.01, relating to requirement of a voluntary act, omission, or possession; amending Subsection (b), Section 7.22, relating to criminal responsibility of corporations and associations; amending Section 7.24 relating to defense to criminal responsibility of corporations and associations; amending Section 9.44 relating to justification for the use of a device to protect property; amending Section 16.01 relating to 'criminal instruments', definition of term, and category of offense; amending Section 21.09, relating to the defense to the offense of rape of a child; amending Subdivision (5), Section 31.01, relating to the definition of 'appropriate'; amending Subsections (a), (b), and (d), Section 31.03, relating to unlawful appropriation and theft of property and penalties therefor; amending Section 36.01 defining 'pecuniary benefit'; amending Section 36.02 relating to bribery; amending Sections 36.07, 36.08, and 36.10, relating to gifts to public servants; amending Subsection (a), Section 42.11, relating to cruelty to animals and making certain exceptions; amending Subdivision (6), Section 46.01 relating to the definition of illegal knife; amending Section 46.03 relating to persons who may carry certain weapons; amending Section 46.06, relating to the penalty for possession of certain prohibited weapons; repealing Section 2.06, Penal Code, relating to prima facie cases, repealing Section 21.06, Penal Code, relating to homosexual conduct; repealing Section 42.12, Penal Code, relating to shooting across a public road; and repealing Article 30, Article 602, Article 602-A and Article 602-B, Penal Code of Texas, 1925; repealing Section 19, Chapter 83, Acts of the 62nd Legislature, Regular Session, 1971 (Section 50A, Article 6701d, Vernon's Texas Civil Statutes); and declaring an emergency."

#### FLOOR AMENDMENT 1

Amend Committee Amendment 1 to S.B. 127 at page 13, line 3 by inserting new subsection (B) and (C) to read as follows:

"(B) not more than one honorarium is received for the same service; and

"(C) the value of the honorarium does not exceed \$250.00" and redesignating the present subsection (B) with the letter (D).

#### FLOOR AMENDMENT 2

Amend Committee Amendment to S.B. 127, p. 16, Section 16, line 10, by deleting "21.06".

#### FLOOR AMENDMENT 3

Amend Committee Amendment 1 to Senate Bill 127, Second House Printing, page 9, line 5, by deleting the word "campaign".

#### FLOOR AMENDMENT 4

Amend Committee Amendment 1 to S.B. 127 by adding to Sec. 36.10 a new subsection (6) on page 13 to read as follows:

"(6) Subsection (5) of Section 36.10 of this act do not apply to those public servants designated in Section 36.08 (f) of this act 30 days prior to or during a regular session of the Texas Legislature."

#### FLOOR AMENDMENT 5

Amend Committee Amendment 1 to Senate Bill 127, Second House Printing, page 13, lines 20 through 24, by striking subsection (B) and adding a new subsection (B) as follows:

"(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision [a contribution made under the election laws for the political campaign of an elective servant when he is a candidate for nomination or election to public office]."

#### FLOOR AMENDMENT 6

Amend Committee Amendment 1 to S.B. 127, Second House Printing, page 13, at the end of subsection "(3)" of quoted section 36.10 and lettering appropriately:

"( ) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision."; and by deleting the period at the end of the preceding line and adding the following: "; and".

#### FLOOR AMENDMENT 7

Amend Committee Amendment 1 to S.B. 127, page 13, line 19, by deleting "\$10" and substituting in lieu thereof "\$20".

The House amendments were read.

Senator Meier moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Jones, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Traeger and Williams.

Nays: Braecklein, Clower, Harrington, Kothmann, Mauzy, McKinnon, Patman and Snelson.

#### SENATE RESOLUTION 721

Senator Adams offered the following resolution:

WHEREAS, Mr. Don Rives has served with distinction and highest dedication as the Executive Assistant to the Lt. Governor; and

WHEREAS, Mr. Rives, upon graduation from North Texas State University received a legal degree from the University of Texas and established a law practice in Marshall, Texas; and

WHEREAS, This gentleman has an enviable record of public service including the honor of election as Marshall's Outstanding Citizen in 1973; a member of the Constitutional Revision Commission of 1973, and numerous other civic and social honors; and

WHEREAS, Mr. Rives and his lovely and charming wife Pat are the parents of Leigh Ann, Greg and Glen Rives; now, therefore, be it

RESOLVED, That the members of the 64th Texas Senate hereby extend congratulations and most sincere appreciation to Mr. Don Rives for his service as Executive Assistant to the Lt. Governor during this session and to all the dedicated members of Lt. Governor's staff.

The resolution was read.

On motion of Senator Patman and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

(Senator Farabee in the Chair)

#### SENATE RESOLUTION 722

Senator Adams offered the following resolution:

WHEREAS, Throughout the history of our state a distinguished handful of men and women have come forth to lead their state with wisdom, dedication to duty and justice, and a degree of honesty that has inspired Texans throughout the challenging history of this land; and

WHEREAS, No one individual better typifies the utmost in service, leadership and human compassion than the gentleman from Houston who has guided this chamber and this state during a period of great challenge, not only in Texas, but also throughout the nation and world; and

WHEREAS, It is the combined belief of the thirty-one members of the Senate, representing the people of Texas, that because Bill Hobby has given of himself in the service of Texas that Texas is a better place to live; and

WHEREAS, The leadership of the Lieutenant Governor of Texas, The Honorable William P. Hobby, has contributed to the positive movement not only of the Senate, but of the state; now, therefore, be it

RESOLVED, that the thirty-one members of the Senate of the State of Texas, assembled in Regular Session this second day of June, 1975, hereby officially and collectively express our gratitude and appreciation for a job well done to the President of the Senate, The Honorable Bill Hobby, our friend and leader during the 64th Session of the Texas Legislature.



ADAMS  
AIKIN

The resolution was read.

On motion of Senator Moore and by unanimous consent, the names of the Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

(President in the Chair)

### SENATE RESOLUTION 723

Senator Adams offered the following resolution:

WHEREAS, One of the most vital and indispensable members of the Senate Staff is the gentleman who provides the technical direction to the parliamentary proceedings of the Senate; and

WHEREAS, The Parliamentarian for the Texas Senate during the 64th Legislative Session has distinguished himself as a man of fairness and honesty beyond reproach; and

WHEREAS, The consistent qualities of the keen and incisive mind of Mr. Steve Bickerstaff have been a guiding force in the smooth and efficient operation of the Senate during the past five months; and

WHEREAS, Steve Bickerstaff's counsel and kind assistance on many legislative matters have won him the personal friendship and admiration of all the members of the Senate; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature officially express most sincere appreciation to Mr. Steve Bickerstaff for the fair and capable manner in which he has served the chamber as Senate Parliamentarian; and, be it further

RESOLVED, that this Resolution be spread upon the Senate Journal as a token of the admiration and esteem in which he is held by the Members of the Senate.

The resolution was read.

On motion of Senator Sherman and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

### SENATE RESOLUTION 724

Senator Adams offered the following resolution:

WHEREAS, The Senate Committee on Administration handles not only all of the "Business" of the Senate but also serves as the Local and Uncontested Calendar Committee; and

WHEREAS, The Local and Uncontested Calendar is vital to not only passing legislation important to local areas but also clears the Regular Senate Calendar for bills needing full Senate Debate; and

WHEREAS, The Clerk of the Administration Committee has areas of increasing responsibility as the session draws closer to Adjournment Sine Die; and

WHEREAS, The organization and care taken by the Administration Committee this year is due in great part to Shelton Smith, the Clerk of the Committee;

and

WHEREAS, Shelton put in many hours not only in Committee Meetings but in preparation for and carrying out the directions of the Committee; and

WHEREAS, This work is the key to keeping straight what bills go on the Calendar and what bills do not; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of Texas pay tribute, give recognition and extend appreciation to Shelton Smith, Administration Committee Clerk, for the outstanding contribution he made to the Senate of the 64th Legislature; and, be it further

RESOLVED, That a copy of this Resolution, bearing the seal of the Senate be prepared for Shelton Smith as a token of appreciation of the work that he did during the Session.

The resolution was read and was adopted.

#### SENATE RESOLUTION 725

Senator Adams offered the following resolution:

WHEREAS, The Research Director of the Senate plays an important role in the legislative process; and

WHEREAS, The Research Director coordinates the senate committee system; and

WHEREAS, The Research Director prepared side by side comparisons of senate and house versions of bills; and

WHEREAS, The fast moving days of the session caused this to be a compounded problem during the last days of the session; and

WHEREAS, The added job of preparing the full conference committee reports kept the Research Director as busy as any person in the Capitol; and

WHEREAS, Dick Strader carried out the duties of his office with distinction; and

WHEREAS, The work of Dick Strader played a vital role in assisting the members of the Senate in doing their jobs; and

WHEREAS, The work of Dick Strader made information available on pending legislation to members of the Senate; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of Texas pay tribute, give recognition and extend appreciation to Dick Strader, Research Director for the Texas State Senate, for the outstanding contribution he made to the Senate of the 64th Legislature; and, be it further

RESOLVED, That a copy of this Resolution, bearing the seal of the Senate be prepared for Dick Strader as a symbol of appreciation of the work done during the session.

The resolution was read and was adopted.

#### SENATE RESOLUTION 726

Senator Adams offered the following resolution:

WHEREAS, Loyalty to duty beyond the normal demands of a position that in itself calls for a dedication beyond most men is a rare thing to be treasured; and

WHEREAS, The Upper Chamber of the Texas Legislature is indeed fortunate to have the tireless services of just such a man; and

WHEREAS, In a true democracy no one man is indispensable, but as in this case, some public servants are indeed invaluable; and

WHEREAS, The Chief Administrative Officer of the Texas Senate, the Secretary, is a gentleman of many qualities, but none greater than his love for life and the spirit of good cheer that he continually imparts to all those around him; and

WHEREAS, As a loving father to Mark and Beth Ann, and loyal companion to his lovely wife, Nadine, this man not only finds time to serve his family, his state and his friends, but is also active in numerous community civic and social functions each year; and

WHEREAS, If there ever could be a "Thirty-second" member, this man would certainly be the chosen one; now, therefore, be it

RESOLVED, That the Members of the 64th Texas Senate gather together this day to proclaim their gratitude and express their friendship to the man who makes it all happen in the Texas Senate, The Honorable Charles Schnabel, Secretary of the Texas Senate.

The resolution was read and was adopted.

#### SENATE RESOLUTION 727

Senator Adams offered the following resolution:

WHEREAS, The Texas Legislative Service gives vital, daily information to the members of the Legislature; and

WHEREAS, The information furnished by the Texas Legislative Service is dependable source of information of what has happened as far legislation is concerned; and

WHEREAS, Mr. James Fish, Capitol Bureau Chief; Mr. G. E. Morrison, Senate Correspondent; Champ Kerr, Senate Correspondent; Steve Gravitt, House Correspondent; and Andrew Fish, House Correspondent have always been helpful to the staffs of both the House of Representatives and the Senate; and

WHEREAS, We wish to express our appreciation of their service to the Legislature; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature express their sincere appreciation for a job well done; and, be it further

RESOLVED, That a copy of this resolution be prepared for the staff of the Texas Legislative Service as a token of the feeling of the Senate of the 64th Legislature.

The resolution was read and was adopted.

#### SENATE RESOLUTION 728

Senator Adams offered the following resolution:

WHEREAS, Mrs. Ann Harris, charming hostess, efficient presiding officer, and lovely wife of the Senator from Dallas, The Honorable O. H. "Ike" Harris, has led the Senate Ladies Club through one of the group's most successful periods of accomplishment during her tenure as club president; and

WHEREAS, Ann Harris is one of the most popular and attractive Senate wives, attributable in large measure to the vital interest she has in everything around her; and

WHEREAS, If one single word were used to describe Ann, it would probably be the word "giving," because she gives herself wholeheartedly to community, family, and finally, to her official duties as President of the Senate Ladies Club; and

WHEREAS, As the mother of two graceful and charming daughters, Wynne, 13, and Gillian, 11, Ann Harris maintains a busy household in Dallas, fulfilling the demands of an always crowded schedule of civic and social activities; and

WHEREAS, It is appropriate that the Senate of the 64th Legislature recognize Mrs. Ann Harris for her distinguished service and leadership, and for representing the official Senate family with poise, distinction, and exceptional ability; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby express deepest appreciation to Mrs. Ike (Ann) Harris for her service to this chamber as the President of the Senate Ladies Club; and, be it further

RESOLVED, That an official copy of this Resolution be presented to Mrs. Ann Harris as an expression of gratitude from the Senate to the first Republican President of the Senate Ladies Club.

The resolution was read.

On motion of Senator Aikin and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

#### SENATE RESOLUTION 729

Senator Adams offered the following resolution:

WHEREAS, The Senate considers itself most fortunate in the services rendered by its floor personnel, a group whose loyalty, dedication and high degree of capability have contributed immeasurably to the success of this session; and

WHEREAS, Their work was excellent in all respects and their knowledge of procedural matters was of much assistance in handling a large amount of important legislation; the Members are appreciative also of the courtesy and unfailing cooperation they received from all; now, therefore, be it

RESOLVED, The Senate of the 64th Legislature hereby commend the Calendar Clerk, Polly Miller, and the Assistant Clerks, Kathleen Hutchins and Ruth Fisher; the Journal Clerk, Betty King and her assistants, Kay Hughes, Margrette Vollers, Joy Williford, Lauri Haynes, and Lorraine Appling; and the Assistant Senate Secretaries, Peggy Brinkman and Beth Becker for their valuable and loyal services; and, be it further

RESOLVED, That official copies of this resolution be prepared for these fine public servants as an expression of deepest gratitude and appreciation for the work and service to the Senate of the 64th Texas Legislature.

The resolution was read and was adopted.

#### SENATE RESOLUTION 730

Senator Adams offered the following resolution:

WHEREAS, Mrs. Madge Steinle, Director, and the personnel of Staff Services have provided valuable assistance to the Senate throughout this session; and

WHEREAS, Their efficiency, courtesy and cooperation meet high standards of public service and reflect much credit on the Senate; now, therefore, be it

RESOLVED, That the Texas Senate commend Mrs. Madge Steinle and all the personnel in Staff Services for their efficient and loyal assistance; and, be it further

RESOLVED, That this Resolution be spread upon the Senate Journal as a token of the Members' appreciation.

The resolution was read and was adopted.

#### SENATE RESOLUTION 731

Senator Adams offered the following resolution:

WHEREAS, A valuable and important aspect to the operations of the Senate is the Media Services Department; and

WHEREAS, The staff of media services has continually provided prompt and efficient service to the many and varied needs of the members of the Senate during this session; and

WHEREAS, Mr. Claiborn Crain and his crew has established themselves as a vital piece of the Senate Machinery, now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby take this opportunity to express deepest appreciation to Mr. Crain and, his staff for a job well done, and, be it further

RESOLVED, That an official copy of this Resolution be prepared and presented to Mr. Crain as a token of our gratitude for their services.

The resolution was read and was adopted.

#### SENATE RESOLUTION 732

Senator Adams offered the following resolution:

WHEREAS, Alex Martinez, Supervisor, and the Senate Reproduction staff have provided prompt and expert services throughout this session, greatly assisting the work of the Senate; and

WHEREAS, The quality of workmanship and cooperative spirit reflect the high standards set by Mr. Martinez and the pride which he and his staff take in performing their duties; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature commend Alex Martinez and his staff for the fine services rendered by Senate Reproduction; and, be it further

RESOLVED, That this resolution be presented to Mr. Martinez as a token of the deepest appreciation of the members of the 64th Texas Senate.

The resolution was read and was adopted.

#### SENATE RESOLUTION 733

Senator Harris offered the following resolution:

WHEREAS, One of the most important and vital demands of any democratic body is the necessity to conduct its deliberations in a secure and dignified atmosphere so as to insure the orderly consideration of the people's business; and

WHEREAS, Mr. Tommy Townsend has performed his duties as Senate Sergeant-at-Arms in a conscientious and commendable manner throughout this session; and

WHEREAS, The Senate was able to conduct its business in a calm, controlled environment, yet open at all times to the people of Texas; and

WHEREAS, The Sergeant-at-Arms and his staff have made these deliberations possible; now, therefore, be it

RESOLVED, That the Senate of the 64th Texas Legislature hereby extend deepest appreciation and gratitude to Mr. Tommy Townsend, his staff and crew on the outstanding job that they have done for the Senate during this session.

The resolution was read and was adopted.

On motion of Senator Aikin and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Harris, the resolution was adopted.

#### **SENATE RESOLUTION 734**

Senator Adams offered the following resolution:

WHEREAS, The work accomplished by the Texas Senate has been greatly assisted by our Enrolling and Engrossing Clerk, Mary Hobart Key, her assistant Patsy Spaw, and our Technical Supervisor, Mary Arnold, supported by the talents of the legal counsel, Mrs. Ione Stumberg and the fine staff working with them; and

WHEREAS, The accuracy and skill with which they have performed their duties enabled the Senate to handle a large volume of legislation smoothly and efficiently, and their constant interest in doing a good job was particularly noteworthy; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature commend these employees for their capable and loyal services; and, be it further

RESOLVED, This resolution be placed in the Senate Journal as a token of the appreciation thus expressed by the Members of the Senate.

The resolution was read and was adopted.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 240**

Senator Sherman submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 240** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHERMAN  
MOORE  
DOGGETT  
FARABEE  
KOTHMANN  
On the part of the Senate

BOCK  
RAINES

LELAND  
SUTTON  
MATTOX  
On the part of the House

A BILL TO BE ENTITLED

AN ACT

amending Article 42.12, Code of Criminal Procedure, 1965, as amended, by adding a new Section 14A to Article 42.12; providing for the appointment of parole commissioners, certain appointees to reside in Walker County; fixing their duties and authority; providing for their method of appointment; providing for their compensation and reimbursement for expenses; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 42.12, Code of Criminal Procedure, 1965, as amended, is amended by adding a new Section 14A to read as follows:

"Section 14A. (a) To aid and assist the Board of Pardons and Paroles in parole matters, provision is hereby made for the appointment of parole commissioners.

"(b) There shall be appointed no less than six commissioners.

"(c) One-third of the commissioners shall be appointed by the governor; one-third of the commissioners by the Chief Justice of the Supreme Court of Texas; and one-third of the commissioners by the Presiding Judge of the Texas Court of Criminal Appeals. One of the commissioners appointed by each of the appointing authorities shall reside in Walker County.

"(d) Each commissioner shall hold office for a term of six years; provided that of the commissioners first appointed, the commissioners appointed by one of the appointing authorities shall serve for two years; the commissioners appointed by one of the appointing authorities shall serve for four years; and the other one-third of the commissioners shall serve for six years. Prior to appointment, the appointing authority shall draw lots for the length of the first term for his respective appointees. All terms shall begin on September 1, 1975.

"(e) In matters of parole decisions, the commissioners shall have the same duties and authority as the board members. A parole panel, as hereinafter provided, may recommend the granting, denying, or revocation of parole, and may conduct parole revocation hearings. The commissioners may interview inmates for parole consideration, and they shall perform their duties as directed by the board in its rules and regulations affecting these commissioners.

"(f) The board may provide and promulgate a written plan for the administrative review of actions taken by a parole panel.

"(g) The commissioners shall be compensated while holding office at a salary to be set by the legislature. They shall be reimbursed for their expenses in the same manner and in the same amount as are board members.

"(h) The board members shall continue to exercise their responsibility for the administrative operation of the board of pardons and paroles.

"(i) In matters of parole decisions, the board members and commissioners may act in panels comprised of three persons in each panel. The composition of the respective panels shall be designated by the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by a majority vote. In parole matters, those functions given to the board throughout Article 42.12, Code of Criminal Procedure, 1965, as amended, may be enlarged and extend to the parole panels, as provided by board rules. The powers of the board and the board members can be delegated by the board to the parole panels and to the commissioners as needed for the convenience of and assistance to the board.

"(j) In case of a vacancy among the parole commissioners, the appointing authority who appointed the commissioner now absent shall fill the vacancy with another appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the commissioner so vacating his office has been appointed."

Sec. 2. There is hereby appropriated from the General Revenue Fund the sum of \$279,000 for each year of the biennium beginning September 1, 1975, and ending August 31, 1977, for carrying out the purposes of this Act. Out of the funds appropriated above, the parole commissioners shall be paid a salary of \$27,000 each for fiscal year 1976 and \$28,800 for fiscal year 1977.

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was adopted.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended and the Conference Committee Report on Senate Bill 240 adopted by a non-record vote (Passed, subject to Sec. 49A, Art. 3, Constitution of Texas).

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 52

Senator Aikin submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby, Lieutenant Governor  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 52, have met and had the same under consideration, and beg to report back with the recommendation that it do pass in the form attached.



AIKIN  
BROOKS  
CREIGHTON  
MOORE  
SCHWARTZ  
On the part of the Senate

PRESNAL  
BLAKE  
LELAND  
PARKER OF DENTON  
On the part of the House

The Conference Committee Report was read and was adopted by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 52  
ORDERED NOT PRINTED IN SENATE JOURNAL**

On motion of Senator Aikin and by unanimous consent, the full text of the Conference Committee Report on **S.B. 52** was ordered not printed in the Senate Journal, but was ordered printed as a Supplement to the Senate Journal.

**AT EASE**

On motion of Senator Aikin and by unanimous consent, the Senate at 8:30 o'clock p.m. agreed to Stand at Ease Subject to the Call of the Chair.

**IN LEGISLATIVE SESSION**

The President called the Senate to order As In Legislative Session at 10:12 o'clock p.m.

**BILLS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills:

- S.B. 1046** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)
- S.B. 1048** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)
- S.B. 756** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**S.B. 439** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**S.B. 1005** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**S.B. 364** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**SENATE CONCURRENT RESOLUTION 114**

Senator Aikin offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, that the Joint Rules of the 64th Legislature and the Rules of the House and Senate be suspended in their entirety insofar as they apply to the conference committee report on Senate Bill 52.

AIKIN  
LONGORIA  
McKNIGHT  
MEIER  
WILLIAMS  
HARRINGTON  
SNELSON  
JONES  
OGG  
LOMBARDINO  
McKINNON  
ANDUJAR  
MENGDEN  
HANCE  
GAMMAGE  
DOGGETT  
HARRIS  
FARABEE  
PATMAN  
CLOWER  
MAUZY  
TRAEGER  
KOTHMANN  
SCHWARTZ  
BROOKS  
MOORE  
CREIGHTON  
BRAECKLEIN  
SHERMAN  
ADAMS  
SANTIESTEBAN

The resolution was read.

On motion of Senator Aikin and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 313

Senator Gammage submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 313 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

GAMMAGE  
BROOKS  
LOMBARDINO  
HARRINGTON  
WILLIAMS  
On the part of the Senate

LAUHOFF  
PEVETO  
NABERS  
On the part of the House

#### A BILL TO BE ENTITLED

#### AN ACT

amending Chapter 13 of Vernon's Texas Civil Statutes by adding thereto Article 1169a authorizing the governing body of any Home Rule City to cause to be prepared a proposed new charter for such city and to submit the same to the qualified electors of such city for adoption or rejection; and declaring an emergency.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Chapter 13 of Title 28 of Vernon's Texas Civil Statutes is hereby amended by adding thereto a new article, after Article 1169, to be designated Article 1169a, which shall read as follows:

"Art. 1169a. The governing body of any home rule city may cause to be prepared a proposed new charter for such city and submit the same to the qualified electors of such city for adoption or rejection, subject to the following provisions:

"(a) The governing body of the Home Rule City may submit to the qualified voters of the city the question of whether the governing body shall prepare a new charter for submission to the voters. The question shall be submitted to the qualified voters at the next regular city election following the decision of the governing body to submit the question of charter preparation to the voters. At the election, the ballots shall be printed to provide for voting for or against the proposition: 'The preparation of a new City Charter by the City of \_\_\_\_\_ for submission to the qualified voters of the city.'

"(b) If a majority of the qualified voters voting at the election vote for the preparation of a new City Charter, a new City Charter may be prepared, but if a majority of the qualified voters voting at the election vote against the preparation of a new City Charter no new City Charter may be prepared and no new proposition for the preparation of a new City Charter under this Act may be submitted to the qualified voters of the city for at least 36 months after the election at which the qualified voters failed to approve the preparation of a new charter.

"(c) In the alternative, the governing body may prepare a new charter for submission to the voters upon the petition of the qualified voters of such Home Rule City in number not less than ten per cent thereof or 10,000 signatures, whichever is less. If a majority of the qualified voters voting at the election at which the proposed new City Charter is submitted, vote against the proposed new City Charter, no petition can be submitted to the governing body for charter preparation under this section for a period of at least 36 months.

"(d) Before approving or ordering an election on a proposed charter, as hereinafter provided, the governing body shall hold public hearings with respect to matters which should or should not be included in a new charter, and all interested citizens shall be entitled to appear at such hearings and be heard. At least four such hearings shall be held, and in any week, there shall be no more than one hearing held. At least one of the hearings shall be held on a Saturday. The governing body shall give notice of the date, time and place of each hearing by causing such notice to be published in a newspaper of general circulation in the city at least fifteen days before the date set for such hearing.

"(e) When a proposed new charter shall have been prepared to the satisfaction of the governing body and the governing body shall have approved the same by ordinance, adopted on three separate readings by a two-thirds vote of the governing body, a copy thereof shall be filed in the office of the City Clerk or City Secretary as a public record. Thereafter, the governing body shall, by ordinance, order such proposed charter to be submitted at an election at which all resident qualified electors of such city shall be entitled to vote, such election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. The governing body may order that such proposed charter be submitted in separate articles at such election. If the next regular municipal election is to be held during said period, the submission of said proposed charter shall be at such election. Otherwise a special election shall be called for the purpose.

"(f) Except as otherwise provided in this article said election shall be conducted in accordance with applicable provisions of the Texas Election Code.

"(g) Notice of the election for the submission of the proposed charter shall be given by publication of such notice, in some daily newspaper, where available or weekly where not, of general circulation published in said city, two times, the date of the first such publication to be not less than fifteen days before the date set for the election. The form of such notice shall be prescribed by the governing body or as may be otherwise prescribed by law, but shall include a copy of the full text of the proposed charter. The notice shall be at least quarter page in size and included in a general news section of

such newspaper. In a city of 1,200,000 or more a copy of the proposed charter shall be mailed, at city expense, to each residence wherein at least one registered voter of said city resides, no less than 30 days before the date set for the election.

"(h) The ballot used in said election shall contain a proposition reading as follows: 'Shall the proposed charter for the City of \_\_\_\_\_ be adopted?', and provisions shall be made so that each voter may vote 'Yes' or 'No' on said proposition. If the City Council orders that the proposed charter be submitted in separate articles then separate propositions shall be submitted, reading as follows: 'Shall Article \_\_\_\_ of the proposed charter for the City of \_\_\_\_\_ be adopted?', and provision shall be made so that each voter may vote 'Yes' or 'No' on each proposition.

"(i) If such proposed charter is approved by a majority of the qualified voters voting at said election, it shall become the charter of said city until amended or repealed. No charter shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted. Provided, however, that, regardless of the date of adoption, any proposed charter submitted at an election may include a provision as to the date when the provisions of such charter shall become effective. Until such charter shall have been adopted and become effective, the provisions of such city's previously existing charter shall remain in effect. The adoption of a charter under the provisions of this article shall not operate to invalidate actions taken or obligations incurred by such city under the authority of its previously existing charter.

"(j) When any such charter shall have been adopted and shall become effective, it shall have the full force of law, except only that any provision thereof which is inconsistent with the constitution or general laws of the state shall be invalid to the extent of such inconsistency.

"(k) This article is cumulative of all other laws concerning the adoption or amendment of city charters.

"(l) No city shall hold an election under the authority of this article more often than once every two years."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was adopted by the following vote: Yeas 25, Nays 5.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Creighton, Meier, Mengden, Ogg and Patman.

Absent: Moore.

#### SENATE CONCURRENT RESOLUTION 113

Senator Gammage offered the following resolution:

S.C.R. 113, Suspending Joint Rules in order that H.B. 734 might be considered at any time.

The resolution was read.

On motion of Senator Gammage and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 16, Nays 8.

Yeas: Braecklein, Brooks, Doggett, Farabee, Gammage, Hance, Harrington, Kothmann, Longoria, Mauzy, McKinnon, Patman, Santiesteban, Schwartz, Traeger and Williams.

Nays: Adams, Aikin, Andjar, Creighton, Harris, Jones, Sherman and Snelson.

Absent: Clower, Lombardino, McKnight, Meier, Mengden, Moore and Ogg.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 168**, John D. Byram, Byram Properties vs. The State Board of Control and the State of Texas.

All necessary rules suspended and the Conference Committee Report on Senate Bill 52 adopted by a record vote of 93 Yeas, 54 Nays. (Passed subject to Sec. 49a, Art. 3, Constitution of Texas.)

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### HOUSE CONCURRENT RESOLUTION 168 ON SECOND READING

The President laid before the Senate the following resolution:

**H.C.R. 168**, Granting John D. Byram, Byram Properties, permission to sue The State.

The resolution was read.

On motion of Senator Adams and by unanimous consent, the resolution was considered immediately and was adopted.

#### SENATE RESOLUTION 735 (Caucus Report)

Senator Aikin offered the following resolution:

Honorable William P. Hobby  
President of the Senate  
Austin, Texas

Sir:

At a caucus held on June 2, 1975, and attended by 30 members of the Senate, the following recommendations were made, to-wit:

**BE IT RESOLVED BY THE SENATE,**

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of his office and to perform duties as may be required in connection with the business of the State from the closing of this session and until the convening of the next session.

The Sergeant-at-Arms shall be retained and a number of assistants as necessary in the operation of the Senate until the convening of the next session.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Room, Staff Services Room, Calendar Clerk and Journal Clerk. The Committee on Administration shall establish the salaries to be paid the Senate Staff.

The Chairman of the Senate Committee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvements as are necessary between the adjournment of this session and the convening of the next session of the Legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the members, as well as of the supplies and equipment on hand in the room of the Sergeant-at-Arms and close his books for the Regular Session of the Sixty-Fourth Legislature. No equipment shall be acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the Regular Session of the 64th Legislature and when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate and one volume thus bound shall be forwarded by the Secretary of the Senate to each member of the Senate, each member of the House of Representatives, on request, to the Lieutenant Governor, and 75 paper bound copies shall be furnished to the State Library. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said Chairman to refuse to receive or receipt for said Senate Journals until corrected and published in accordance with the pre-existing law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 64th Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 64th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, members of the Senate, and

employees of the Senate committees upon presentation of a payroll account signed by the President of the Senate and the Secretary of the Senate; for payment of employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies and expenses of the Senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the Legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual members office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the members when traveling in performance of such duties and responsibilities or incident thereto, and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin, but may be incurred in individual Senatorial Districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the Regular Session until the convening of the next regular or special session, each Senator shall be permitted to employ secretarial and other office staff at a maximum payroll of \$3,900.00 per month under the classification schedule hereinafter provided. Other expenses including actual travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of his office or incident thereto shall be provided in addition to the maximum salary authorized.

It is further recommended that each employee of the Senate except elected officers be classified and paid pursuant to the following schedule to include salary changed made by the General Appropriations Act:

<u>Title</u>	<u>Class Number</u>	<u>Group</u>	<u>Salary and Step Range</u>
Clerk I	0051	02	424(1) - 500(2) - 517(3)
Messenger	0011	02	534(4) - 552(5) - 571(6)
Clerk Typist II	0106	04	552(1) - 571(2) - 590(3)
Stenographer I	0126	04	610(4) - 630(5) - 651(6)
Secretary II	0133	05	673(5) - 696(6) - 719(7)
Secretary III	0135	07	768(5) - 794(6) - 820(7)
Administrative Secretary	0138	09	876(5) - 906(6) - 936(7)
Information Specialist I	1892	14	1068(1) - 1104(2) - 1141(3)
Administrative Technician I	1501	08	820(5) - 848(6) - 876(7)
Administrative Technician II	1502	11	968(4) - 1000(5) - 1034(6)
Administrative Technician III	1503	13	1068(3) - 1104(4) - 1141(5)
Administrative Technician IV	1504	15	1219(3) - 1259(4) - 1302(5)
Information Specialist II	1893	16	1259(2) - 1302(3) - 1345(4)
Attorney III	3533	17	1302(1) - 1345(2) - 1391(3)
Research Assistant II	1517	13	1179(6) - 1219(7) - 1259(8)
ADP Equipment Operator I	0221	07	673(1) - 719(3) - 768(5)
Reproduction Equipment Oper. I	0309	09	768(1) - 820(3) - 876(5)

Employees who do not readily fit one of the above classified positions may be assigned a title under the General Classified Positions outlined in the General



Appropriations Act upon authorization of the Administration Committee; and, be it further

RESOLVED, That the Lieutenant Governor shall have the authority to appoint any member of the Senate, the Secretary of the Senate or other Senate employees to attend National Legislative Conferences and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate; and, be it further

RESOLVED, That the Chairman of the Finance Committee have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, who shall discharge the duties of the Finance Committee; and, be it further

RESOLVED, That each of the Standing Committees and Subcommittees of the Senate of the 64th Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation and perform research on matters directed either by resolution, the Lieutenant Governor or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

RESOLVED, That the cash balance on hand under the provisions of Senate Resolution No. 15 of the Forty-Seventh Legislature be turned over to the Secretary of the Senate and he is directed to have full charge of the vending machines and to expend receipts thereof as now authorized by said Resolution; and, be it further

RESOLVED, That the Sergeant-at-Arms is specifically directed not to permit the removal of any of the property of the Senate from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

AIKIN  
Chairman of the Caucus

SNELSON  
Secretary of the Caucus

The resolution was read and was adopted.

#### RECORD OF VOTES

Senators Sherman, Aikin, Patman, Braecklein, Hance and McKinnon asked to be recorded as voting "Nay" on the adoption of the resolution.

#### ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM FOR THE REGULAR SESSION OF THE SIXTY-FOURTH LEGISLATURE

The President announced the election of the President Pro Tempore as the next order of business.

Senator Aikin nominated Senator H. Tati Santiesteban of El Paso as President Pro Tempore Ad Interim for the Regular Session of the Sixty-Fourth Legislature.

Senators Gammage, Adams, Sherman, Brooks, Braecklein, Harris, Schwartz, Andujar and Longoria seconded the nomination.

The President appointed Senators Braecklein and Harrington as Tellers.

The ballots were taken up and counted and the President announced that Senator Santiesteban had received 30 votes with one present and not voting for President Pro Tempore Ad Interim and declared him duly elected.

Senators Aikin, Adams, Braecklein, Longoria and Brooks were appointed to escort Senator Santiesteban, his wife, Sue, and his daughter, Lori, to the President's Rostrum.

The President then presented Senator Santiesteban to the Senate as their President Pro Tempore Ad Interim.

Senator Santiesteban addressed the Senate as follows:

"It's a privilege, it's an honor, I'm going to do my best. I always try to do my best. Whether we like it or whether we don't like it, we're involved, and I love this state, I love this country, I love this opportunity, and you see that's all we have to give -- is opportunity. We don't have to give out handouts, we don't have to be tokens. You nor I, nor anyone else. And all of us have the right to discriminate against filth, prejudice, obscenity, and vulgarness, but never, not against race. So, if we hang in there together and we give people the opportunity to achieve the heights of their ambitions, I think that's what this Senate is all about, and I think that's what the United States of America is all about, and what Texas is all about.

"I thank you for this honor, I'll work hard, I won't disappoint you. Muchas gracias."

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2136

Senator Snelson submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2136** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SNELSON  
OGG  
JONES  
HANCE  
PATMAN  
On the part of the Senate

HEAD

LELAND  
PENTONY  
RAINS  
GASTON  
On the part of the House

The Conference Committee Report was read and was adopted.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the Conference Committee Report on House Bill 819 adopted by a vote of 120 Yeas, 24 Nays, 2 Present-Not voting.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### SENATE CONCURRENT RESOLUTION 112

Senator Adams offered the following resolution:

BE IT RESOLVED, By the Senate of the 64th Legislature, the House of Representatives concurring, that the Regular Session of the 64th Legislature, stand adjourned sine die at 11:59 p.m. June 2, 1975.

The resolution was read.

On motion of Senator Adams the resolution was considered immediately and was adopted.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended and the Conference Committee Report on Senate Bill 616 adopted by non-record vote.

All necessary rules suspended and the Conference Committee Report on Senate Bill 965 adopted by record vote of 81 Yeas, 60 Nays.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### **BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

**H.C.R. 127**

**H.C.R. 162**

**H.C.R. 163**

**H.C.R. 164**

**H.C.R. 166**

**H.C.R. 167**

**H.C.R. 170**

**H.J.R. 99**

**H.B. 4** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**H.B. 201**

**H.B. 546**

**H.B. 809**

**H.B. 1058**

**H.B. 1126** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**H.B. 1484**

**H.B. 1673** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**H.B. 1674** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

**H.B. 2151**

**H.B. 2179**

**H.B. 2197** (Signed subject to provisions  
of Sec. 49a, Article III  
of the Constitution  
of Texas)

#### **MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate.

Austin, Texas  
June 2, 1975

The Honorable William P. Hobby  
Lt. Governor

President of the Senate  
Austin, Texas

The Honorable Bill Clayton  
Speaker of the House of Representatives  
Austin, Texas

Honorable Members of the Legislature  
Austin, Texas

Honorable Lt. Governor, Honorable Speaker and Honorable  
Members of the Legislature:

Today, I am submitting as an emergency matter the accompanying measure under the provisions of Article III, Section 5, of the Constitution of the State of Texas.

I urge your prompt consideration and enactment of this legislation.

TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE REGULAR  
SESSION:

Pursuant to the provisions of Section 5, Article III of the Constitution of Texas, I herewith submit as an emergency matter the following:

House Bill 734, relating to child care.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

**ADMINISTRATION COMMITTEE  
GRANTED PERMISSION TO MEET**

On motion of Senator Adams and by unanimous consent, the Committee on Administration was granted permission to meet while the Senate was in Session.

**AT EASE**

The President announced the Senate at 10:58 o'clock p.m. would Stand At Ease Subject to Call of the Chair.

(Senator Kothmann in the Chair)

**IN LEGISLATIVE SESSION**

The President called the Senate to order As In Legislative Session at 11:40 o'clock p.m.

**BILL SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bill:

**S.B. 1046** (again signed) (Signed subject  
to provisions of Sec. 49a,

Article III of the  
Constitution of Texas)

**MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, June 2, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Motion to suspend all necessary rules in order to take up and consider at this time **S.B. 262** failed by record vote of 85 Ayes, 53 Nays.

All necessary rules suspended and the Conference Committee Report on Senate Bill 1036 adopted by record vote of 67 Ayes, 60 Nays, 2 Present-Not voting.

All necessary rules suspended and the Conference Committee Report on Senate Bill 313 adopted by record vote of 106 Ayes, 22 Nays, 11 Present-Not voting.

All necessary rules suspended and the Conference Committee Report on House Bill 2136 adopted by record vote of 109 Ayes, 31 Nays.

**S.C.R. 113**, Suspending the Joint Rules so that either House may take up and consider **H.B. 734**.

All necessary rules suspended, and the Conference Committee Report on House Bill 2175 adopted by a vote of 133 Ayes, 10 Nays, 1 Present-Not voting. Passed, subject to Sec. 49A, Art. 3, Constitution of Texas.

**S.C.R. 112**, That the Regular Session of the 64th Legislature, stand adjourned sine die at 11:59 p.m., June 2, 1975.

Respectfully submitted,  
**DOROTHY HALLMAN**  
Chief Clerk, House of Representatives

**SENATE NOTIFIED**

A committee from the House of Representatives appeared at the Bar of the Senate and Mr. Blake for the committee notified the Senate that the House was ready to adjourn sine die.

**BILLS AND RESOLUTION SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolution:

**S.B. 52** (Signed subject to Sec. 49a,  
Article III of the Constitution  
of Texas)

**H.B. 819**  
**H.C.R. 168**  
**H.B. 292**  
**H.B. 2136**

#### **MOTION IN WRITING**

Senator Aikin submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and was adopted.

The President announced the appointment of the following Committee to notify the House of Representatives: Senators Traeger, Schwartz, Moore, Lombardino and Longoria.

#### **MOTION IN WRITING**

Senator Aikin submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and was adopted.

The President announced the appointment of the following Committee to notify the Governor: Senators Snelson, Aikin, Andujar, McKinnon and Mauzy.

(Senator Brooks in Chair)

#### **GOVERNOR NOTIFIED**

The Committee to notify the Governor that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Aikin for the Committee reported that the committee had performed the duty assigned to it.

The Committee was discharged.

#### **HOUSE NOTIFIED**

The Committee to notify the House of Representatives that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Schwartz for the Committee reported that the committee had performed the duty assigned to it.

The Committee was discharged.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

<b>S.C.R. 31</b>	<b>S.C.R. 39</b>	<b>S.C.R. 89</b>
<b>S.C.R. 94</b>	<b>S.C.R. 96</b>	<b>S.C.R. 100</b>
<b>S.C.R. 103</b>	<b>S.C.R. 109</b>	<b>S.C.R. 111</b>
<b>S.C.R. 112</b>	<b>S.C.R. 113</b>	<b>S.B. 5</b>
<b>S.B. 127</b>	<b>S.B. 192</b>	<b>S.B. 313</b>
<b>S.B. 521</b>	<b>S.B. 616</b>	<b>S.B. 696</b>
<b>S.B. 734</b>	<b>S.B. 761</b>	<b>S.B. 763</b>
<b>S.B. 839</b>	<b>S.B. 869</b>	<b>S.B. 871</b>
<b>S.B. 893</b>	<b>S.B. 923</b>	<b>S.B. 965</b>
<b>S.B. 980</b>	<b>S.B. 1010</b>	<b>S.B. 1036</b>
<b>S.B. 1094</b>	<b>S.B. 1073</b>	<b>S.B. 365</b>

**S.B. 137** (Signed subject to Sec. 49a,  
Article III, Constitution of  
the State of Texas)

**S.B. 240** (Signed subject to Sec. 49a,  
Article III, Constitution of  
the State of Texas)

**S.B. 762** (Signed subject to Sec. 49a,  
Article III, Constitution of  
the State of Texas)

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2175**

Senator Snelson submitted the following Conference Committee Report:

Austin, Texas  
June 2, 1975

The Honorable William P. Hobby  
President of the Senate

The Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee appointed to adjust the differences between the House and Senate on **H.B. 2175** have met and adjusted our differences and beg leave to recommend that it be passed in the form attached hereto.

Respectfully submitted,  
**SNELSON**  
**OGG**  
**MOORE**  
**JONES**  
**LOMBARDINO**  
On the part of the Senate



HEATLY  
EVANS  
TANNER  
JONES  
CLARK  
On the part of the House

The Conference Committee Report was read.

Senator Mauzy raised a Point of Order against further consideration of the Conference Committee Report, stating that the time was after 12:00 midnight of the last day of the 140 days of the session and that no valid action could be taken on the Conference Committee Report.

The President sustained the Point of Order, but further indicated that although no legislation could be considered after 12:00 midnight, consideration of routine matters and the exercise of duties necessary to the orderly conclusion of the session, such as the signing of bills and resolutions in the presence of the Senate, could occur.

#### MEMORIAL RESOLUTIONS

**H.C.R. 164** - Memorial resolution for The Honorable Rex Braun.

**S.R. 716** - By Senator Schwartz: Memorial resolution for Mrs. Abby K. Evans.

**S.R. 736** - By Senator Aikin: Memorial resolution for The Honorable Eli Brown Barrett.

#### WELCOME AND CONGRATULATORY RESOLUTIONS

**H.C.R. 170** - Congratulatory resolution for Health Study Committee.

**S.R. 700** - By Senator Farabee: Extending welcome to Tracy Williams.

**S.R. 701** - By Senators Ogg and McKnight: Extending congratulations to The Texas Mass Transportation Commission.

**S.R. 703** - By Senator Adams: Extending congratulations to Gary, Texas.

**S.R. 704** - By Senator Adams: Extending congratulations to Panola County.

**S.R. 706** - By Senator Adams: Extending congratulations to Beckville, Texas.

**S.R. 710** - By Senator Farabee: Extending welcome to Mr. and Mrs. J. W. Cantrell and son, Ross.

**S.R. 712** - By Senator Williams: Extending welcome to Michael Shane Valentine.

**S.R. 713** - By Senator Farabee: Extending welcome to Mr. and Mrs. James Williams and daughters, Patti and Janice.

**S.R. 714** - By Senator Schwartz: Extending congratulations to The Live Oak Missionary Baptist Church.

**S.R. 715** - By Senator Sherman: Extending congratulations to Dr. Kenneth H. Cooper.

**S.R. 717** - By Senator McKinnon: Extending congratulations to Dr. James Coffey Jernigan.

**S.R. 718** - By Senator Brooks: Extending congratulations to Alvin L. Duvall.

**S.R. 719** - By Senator Schwartz: Extending welcome to Scott Fish.

**S.R. 737** - By Senator Aikin: Extending congratulations to William G. Gibbs, Sr.

#### ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the Sixty-Fourth Legislature had arrived.

Senator Andujar moved that the Senate of the Sixty-Fourth Legislature stand adjourned sine die.

The motion prevailed and the President declared the Regular Session of the Sixty-Fourth Legislature adjourned sine die.

#### APPENDIX

##### Sent to Governor

(June 2, 1975)

<b>S.B. 17</b>	<b>S.B. 596</b>	<b>S.B. 883</b>
<b>S.B. 130</b>	<b>S.B. 665</b>	<b>S.B. 912</b>
<b>S.B. 172</b>	<b>S.B. 706</b>	<b>S.B. 940</b>
<b>S.B. 270</b>	<b>S.B. 722</b>	<b>S.B. 991</b>
<b>S.B. 276</b>	<b>S.B. 746</b>	<b>S.B. 1034</b>
<b>S.B. 277</b>	<b>S.B. 748</b>	<b>S.B. 1047</b>
<b>S.B. 319</b>	<b>S.B. 759</b>	<b>S.B. 1110</b>
<b>S.B. 398</b>	<b>S.B. 809</b>	<b>S.B. 1113</b>
<b>S.B. 466</b>	<b>S.B. 880</b>	<b>S.B. 1119</b>
<b>S.B. 491</b>		

(June 3, 1975)

<b>S.C.R. 31</b>	<b>S.B. 5</b>	<b>S.B. 869</b>
<b>S.C.R. 39</b>	<b>S.B. 127</b>	<b>S.B. 871</b>
<b>S.C.R. 89</b>	<b>S.B. 192</b>	<b>S.B. 893</b>
<b>S.C.R. 94</b>	<b>S.B. 313</b>	<b>S.B. 923</b>
<b>S.C.R. 96</b>	<b>S.B. 521</b>	<b>S.B. 965</b>
<b>S.C.R. 100</b>	<b>S.B. 616</b>	<b>S.B. 980</b>
<b>S.C.R. 103</b>	<b>S.B. 696</b>	<b>S.B. 1010</b>
<b>S.C.R. 109</b>	<b>S.B. 734</b>	<b>S.B. 1094</b>
<b>S.C.R. 111</b>	<b>S.B. 761</b>	<b>S.B. 365</b>
<b>S.C.R. 112</b>	<b>S.B. 763</b>	<b>S.B. 1073</b>
<b>S.C.R. 113</b>	<b>S.B. 839</b>	<b>S.B. 1036</b>

(June 4, 1975)

S.B. 67  
S.B. 1046

(June 6, 1975)

S.B. 52	S.B. 439	S.B. 1005
S.B. 364	S.B. 756	S.B. 1048

(June 9, 1975)

S.B. 240	S.B. 137	S.B. 762
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Sent to Comptroller

(June 3, 1975)

S.B. 1048	S.B. 364	S.B. 240
S.B. 756	S.B. 52	S.B. 762
S.B. 439	S.B. 137	S.B. 1046
S.B. 1005		

**IN MEMORY OF  
FORMER STATE REPRESENTATIVE REX BRAUN**

Senator Brooks offered the following resolution:

(Senate Resolution 705)

WHEREAS, As the people of Texas and the citizens of Harris County are grieved by the untimely death of former State Representative Rex Braun on Sunday, June 1, 1975; and

WHEREAS, Rex Braun will be missed by his friends and former colleagues and friends in the Legislature; and

WHEREAS, The 54-year-old Democrat served three terms as a State Representative from Houston, being elected without opposition in 1966, 1968, and 1970; and

WHEREAS, Rex Braun was proud of his role as a vocal member of the "Dirty Thirty" of the 62nd Legislature; and

WHEREAS, Mr. Braun was an optimistic and tenacious advocate for the causes in which he believed, and was an enthusiastic campaigner who was as undaunted in defeat as he was jubilant in victory; and

WHEREAS, This respected leader gladdened the hearts of progressives across the state by becoming the first public official to volunteer a full financial disclosure statement of his personal wealth immediately upon taking office; and

WHEREAS, He championed environmental and ethics legislation, as well as being an early supporter of equal rights for women; and

WHEREAS, After graduation from Southwest Louisiana University, he served in the Marine Corps during World War II and was wounded on Okinawa; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of the State of Texas, honor the memory of Rex Braun and extend sympathy to the members of his family: to his wife, Ruth; his two sons, Mike and Lenny; and his daughter, Mrs. Debbie Stanton; and, be it further

RESOLVED, That official copies of this Resolution be prepared for the members of his family and that a page be set aside in the Senate Journal to mark his achievements and honor his memory, and that when the Senate of the State of Texas adjourns this day it do so in memory of The Honorable Rex Braun.

On motion of Senator Gammage and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brooks, the resolution was adopted by a rising vote of the Senate.

## APPENDIX

The Senate of  
The State of Texas  
Austin

June 27, 1975

Pursuant to S.C.R. No. 3 passed by the 64th Legislature, Regular Session, the State Artist Committee met and agreed upon the following:

To be the Texas State Artist from May 1, 1975, through April 30, 1976, Jack White of Comal County, on motion of Representative Bock.

To be the Texas State Artist from May 1, 1976, through April 30, 1977, James Boren of Bosque County, on motion of Senator Braecklein.

To be the alternate State Artist from May 1, 1976, through April 30, 1977, Kenneth Wyatt of Swisher County, on motion of Representative Laney.

In addition to the above designated artists, the committee also agreed to bestow recognition on an additional artist. To be the Bicentennial Artist from July 4, 1975, through July 4, 1976, Robert Summers of Somervell County, on motion of Senator Creighton.

The committee ordered that appropriate certificates be prepared and presented to these artists of July 5, 1975, at the Kerrville Art and Craft Show.

Agreed to this the 27th day of June 1975.

/s/	/s/
_____ Senator Bill Braecklein	_____ Representative James E. Laney

/s/	/s/
_____ Senator Tom Creighton	_____ Representative Bennie Bock, II

/s/  
\_\_\_\_\_  
Secretary of State Mark White